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ABSTRACT

The manual for Michigan special education administrators addresses the rules and regulations of P.L. 94-142 (the Education for All Handicapped Children Act) and recommendations from the Special Education Task Force of 1977. The first paper, titled "Levels of Legal Authority Related to the Education of Handicapped Persons in Michigan" by J. Baxter and R. Baldwin, clarifies the levels of state and federal regulations governing education for the handicapped. A second chapter contains the Administrators Procedures Act of 1969 which covers the process that must be followed whenever the Department of Education wishes to revise their rules. The process for emergency rules and declaratory rulings is also presented. General provisions and programs and services under the School Code of 1976 (P.A. 451) are presented in a third chapter. The administrative rules for special education (Chapter 4) are given as a source of information for dealing with questions regarding the provision of programs and services. A fifth chapter contains Special Education Services Area official interpretations of various legislative mandates. The Federal Annual Program Plan (Chapter 6) outlines procedures for implementing the rules and regulations of P.L. 94-142 relating to: right to education, priorities, child identification, individualized education programs, procedural safeguards, least restrictive environments, due process, personnel development, participation of private schools, evaluation, and confidentiality. A copy of the State Aid Act for 1981-82 makes up Chapter 7. A final chapter provides information on resources within the Michigan Department of Education. (SB)

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Administrative Manual For Special Education

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This manual was developed by the Michigan Department of Education, Special Education Services Area, Analysis, Planning and Technical Assistance Unit, with the assistance of federal funds made available through Title VI - Part B funds from Education of the Handicapped Act, P.L. 94-142.

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MICHIGAN STATE BOARD OF EDUCATION STATEMENT OF ASSURANCES OF COMPLIANCE WITH FEDERAL LAW

The Michigan State Board of Education complies with all Federal Laws and regulations prohibiting discrimination and with all requirements and regulations of the U. S. Department of Education. It is the policy of the Michigan State Board of Education that no person on the basis of race, color, religion, national origin or ancestry, age, sex, marital status of handicap shall be discriminated against, excluded from participation in, denied the benefits of or otherwise be subjected to discrimination in any program or activity for which it is responsible or for which it receives financial assistance from the U. S. Department of Education.

June, 1981

PREFACE

During the 1960's, the Michigan Association of Administrators of Special Education (MAASE) took the leadership in working with the Department of Education to develop a special education administrative manual. The manual became outdated with the passage of Michigan's Mandatory Special Education legislation in 1971. In 1975, MAASE again took the leadership and published an administrative handbook which was a copulation of Department of Education interpretations along with state and federal regulations.

In August of 1980, the State Board of Education approved a set of revised rules which contain provisions from the rules and regulations of P.L. 94-142 and numerous recommendations from the Special Education Task Force of 1977. Due to the legalistic nature of special education in the late 70's and early 80's, it was suggested by Foster Eid, an SESA consultant, that a document of this nature be provided to school districts.

Appreciation is extended to Mr. Walt Wend and Ms. Barbara Hudak for poring over seven three-ring binders to identify past policies that are relevant today. They also devised the index system which allows for quick and easy retrieval of information. Their patience and thoroughness is admired.

Project director, Susan Moore, is credited with efficiently bringing items together, constructing the manual, and organizing the dissemination of this information. Her independence and professionalism is valued.

Finally, a special thank you is in order to those members of the Special Education Services Area Staff who carefully reviewed all interpretations for consistency and relevancy.

This manual is ready for its test of usefulness. A lot of time and effort has gone into its preparation with the sincere hope that it proves to be a constant source of information and a vehicle for common understanding.

Jan Baxter, Supervisor
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Assistance
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Richard L. Baldwin, Project Manager
Special Education Consultant

INTRODUCTION

Reprinted and Distributed
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Dear Administrators of Special Education:

This administrative manual is presented to you with a sincere hope that it will serve as a tool for consistency of information and a source of documents vital to the administration of special education in the 1980's.

We have experienced many growing pains in the short history of mandatory special education. Part of this growth is being thrust into an arena of laws, rules, regulations, and their subsequent interpretations. This is the nature of the times we live in and, while we work toward an improved delivery system that emphasizes the needs of children while maintaining accountability, it is incumbent upon leadership persons to be fully informed on legal matters that serve as parameters to our educational service.

It is my intent to provide the administrator with those items that will be referenced frequently. As Will and Fran Sosnowsky indicate on the following page, today's special education administrator does need an understanding of, and access to, many additional items.

This manual is to be a "living document" in that you will receive additional information to add to the section (official interpretations), future updated materials (FAPP, State Aid Act), and perhaps an additional category if such would prove helpful.

It is my hope that this tool will meet a need for consistency and serve as a common vehicle of information to all who administer special education programs and services.

Sincerely,

Murray O. Batten

Murray O. Batten, Director
Special Education Services

Educator Press - February, 1981

SPECIAL EDUCATION ADMINISTRATORS, GET YOUR LIT. TOGETHER

by
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and
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Special Education Consulting
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Macomb Intermediate School District
January, 1981

The modern special education administrator is repeatedly importuned to " know the law" as it applies to the handicapped. The "law", however, has reached the status of voluminosity. To "know" it, first requires that it be identified. This article is devoted to such identification.

At both the state and federal levels statutes, and rules and regulations abound, not to mention policy statements and interpretations. The explosion of court cases and the decisions thereof will ultimately accrue in yet more such legal foundations. It's time that an index of these various documents be created, and we modestly propose to do so herein.

As a result of our research we have compiled an index of 47 official legislative and departmental documents that impinge upon the handicapped in relation to their education, rehabilitation, and rights. And this is only the Michigan composite. The federal arena is a study in itself and is deferred to our next article in the Educator Press.

The Sosnowsky-LaPlante Index to Official Michigan Policy on the Education of the Handicapped

1. The Constitution of the State of Michigan of 1963, as amended. Article 8 - Service for the handicapped persons; Section 3 - State board of education, duties.

2. School Code of 1976. (Act 451 of 1976; Michigan Compiled Laws 380.1 et seq.). The School Code contains the provisions of Act 198 of 1971. The trick is to find them; the Rosetta Stone is at hand. The sections and subsections of the Code which incorporate those of 198/1971 are as follows: 3 (1, 2, 5), 4 (2, 3, 4), 5 (7), 6 (5, 6, 7), 7 (4), 1561 (3), Part 29 (sections 1711, 1729, and 1741), Part 30 (sections 1711, 1729, 1741, and see also sections 1716, 1722-1729, 1731, 1732, 1742, 1743), Part 31 (sections 1751, 1756, 1757, 1761, and see also 1766).

The Code also contains other provisions si cantly related to special education. These visions are found in sections 472, 605, 622, 624, 628, 629, 701, 702, 1146, 1172, 1178, 1251, 1296, 1311, 1586 and 1596.

3. The Mandatory Special Education Act: Explanatory Comments, Drafter's intent, December, 1972.

4. Michigan Special Education Rules (Michigan Administrative Code: Annual Supplement to the Code, R 340.1701 - R 340.1873; effective August 13, 1981). This set of rules is the fourth since the enactment of Act 198 of 1971.

5. State School Aid Act (Act 320 of 1980). Article 5, sections 51, 53, 56; and sections 71 (2), 81, 83, 97(4)(d), 105(1)(a), and 111(1, 3).

6. Michigan Special Education Administrative Manual. The Manual, soon to be distributed, is to be supplemented quarterly. Contents will include official interpretations, and "other related legal items."

7. Michigan State (Special Education) and Amended Annual Program Plan.

8. Intermediate School District Plans.

9. Policy and Procedures on Non-compliance with the Mandatory Special Education Act. Accords with section 1702 of the School Code. Directs the administrator in proper bullet-biting.

10. Policy for granting deviations under Rule 34 (R 340.1734).

11. Compliance, Complaint Procedures Handbook (May 1979).

12. Procedures for reviewing, processing intermediate school district plans.

13. Procedures for providing special education programs, services for eligible students in state institutions.

14. School District Pupil Accounting for Distribution of State Aid (R 340.1 - R 340.12). See rules 2(5), 4(d), 5(1)(d, g), 8(b), 10(6).

15. Official SESA Interpretations (1-15).

16. Michigan Interagency model, delivery system of vocational education services for the handicapped (1-8-1979).

17. Operational procedures for special education programs for residents of mental health facilities for the developmentally disabled (Michigan Department of Education, Michigan Department of Mental Health, joint agreement).

18. Review procedures for contested decisions (April, 1979).

19. Guidelines for Special Education Programs, Services in Michigan (Revised Edition, 1977).

20. Guidelines on responsibility of school districts to provide preprimary programs, services to handicapped children (August 19, 1980).

21. State Board of Education (Act 287 of 1964, as amended). See sections 1008b, and 1009a.

22. Teacher Certification Code (R390.1101 et seq.). See section 1105(5).

23. School Psychological Services (R340.1151 - R 340.1158).

24. State board procedures for processing requests for deviation from special education administrative rules.

25. Michigan Monitoring Activities, Parts I-V.

26. School Social Worker - Rules. (R 340.1011 R 340.1018).

27. A Handbook for Parents: Planning, Coordinating & Implementing Services for Special Students (October, 1980).

28. The IEPC Process (October, 1980).

29. Michigan Handicappers' Civil Rights Act (Act 220 of 1976).

30. The Rehabilitation Act of 1964 (Act 232 of 1964).

31. Vocational Rehabilitation - Rules (R 340.395.1 - R 340.395.42).

32. Personality Tests (R 340.1101 - R 340.1107).

33. Revised Judicature Act of 1961 (Act 236 of 1961), See section 2165 regarding disclosure of student records.

34. The Mental Health Code (Act 258 of 1974).

35. The Public Health Code (Act 368 of 1978). See Part 58 which incorporates the Crippled Children's Act.

36. Child Protection Law. (Act 238 of 1975).

37. Utilization of Public Buildings by Physically Handicapped (Act 1 of 1966, as amended).

38. State Schools for Deaf, Blind (Act 148 of 1917, as amended).

39. Michigan School for the Deaf (Act 116 of 1893, as amended).

40. Michigan School for the Blind (Act 123 of 1893, as amended).

41. Transcription of Educational Materials Into Braille (R 388.261 - R 388.265).

42. Auxiliary Services for Nonpublic School Children (R 340.291 - R 388.265).

43. Private, Denominational, and Parochial Schools (Act 302 of 1921, as amended). Section 8 concerns standards for schools for the handicapped.

44. Transportation of Nonpublic School Children (R 340.281 - R 340.382).

45. Boarding School Licenses (R 340.481 - R 340.489). See sections 483(b) and 484(b).

46. Michigan Special Education Advisory Committee: Functions, Procedures (March 7, 1979).

47. The Michigan Life Role Competencies.

Epilogue. Our inexorable expatiation over the realm of official policy is concluded. There is a bit of serendipity in two respects; a spinoff of history, and a spinoff of the evidence of a compassionate state. As to history, our research indicates that item 39 of the index its forerunner extends back in time to 1848, when Michigan was eleven years old. As to a compassionate state, clearly, Michigan (its people), through all of its history, has looked to the welfare of the disabled in ever-expanding ways. We challenge our readers to improve upon the index, and certainly to let the constituents know about it.

How To Use This Manual

MANUAL COORDINATOR

It is suggested that each public agency receiving this manual have one person responsible for it. This person shall see that the contents are up-to-date and devise a system of accessibility to all persons within the agency or organization wishing to view its contents. Items in this manual may be reproduced by the recipient and distributed to interested persons.

SUPPLEMENTS

On September 1, 1981, a supplement to this manual will be sent to each designated recipient. Every four months thereafter a supplement will be sent (January 1, May 1, August 1, September 1). These supplements will include replacements of material, addendums, additional items (official interpretations), or corrections/revisions of content material. A revised index of the official interpretation section will be provided next spring along with an evaluation to determine the usefulness of this manual.

SOURCE OF INFORMATION

This manual is designed to be a source of information for administrators of special education programs and services. One copy of this manual was offered to each ISD and LEA in Michigan. Statewide organizations and universities with special education administrative curriculums were also offered the opportunity to receive this manual. It is not being provided to individuals.

Contents

LEVELS OF LEGAL AUTHORITY

This paper is included within this manual so that administrators may quickly ascertain the binding or non-binding nature of documents impacting on handicapped children. This document references the Michigan Constitution, Statutes, Rules, Interpretations, Federal Annual Program Plan, ISD Plans and Staff Devised Letters.

The paper was published in the October 1980 issue of the Michigan School Board Journal.

ADMINISTRATIVE PROCEDURES ACT (APA)

The Administrative Procedures Act is presented in this manual so that administrators will be knowledgeable of the process that must be followed whenever the Department of Education wishes to revise their rules. The process for emergency rules and declaratory rulings is also presented.

MANDATORY SPECIAL EDUCATION - SCHOOL CODE OF 1976 - ARTICLE 3

The correct reference for statutory language relating to mandatory special education in Michigan is Article 3 of P.A. 451 of 1976. P.A. 451 of 1976 is commonly known as the School Code of 1976. It is only proper to refer to P.A. 198 when speaking from a historical perspective.

This chapter of the manual includes only Article 1; Part 1, General Provisions and Article 3; Special Education Programs and Services, of the School Code of 1976. Administrators desiring additional information included in the School Code should refer to the State of Michigan General School Laws. This publication is available from the Michigan Department of Management and Budget, General Services Section, Secondary Complex, 7461 Crowner Drive, Lansing, MI, 48913.

ADMINISTRATIVE RULES FOR SPECIAL EDUCATION

The administrative rules for special education are binding on all agencies providing special education programs and services to handicapped persons. The rules are presented in this manual as a source of information when questions arise regarding the provision of programs and services.

SESA OFFICIAL INTERPRETATIONS

These interpretations are provided by the Director of the Special Education Services Area as a means of clarifying the intent and meaning of a rule. These interpretations offer consistency for the Special Education Services Area Staff and serve to inform the school districts of the rule's intent.

The box in the upper right side of each interpretation provides the reader with identifying information. The rule being interpreted is noted on the first line. The number at the end of the rule is the number of interpretations provided on this rule. The interpretation (I) number is on line 2. The third line is the effective date of the interpretation.

Example	Translation
R 340.1701-01	This is the first interpretation (01) of R 340.1701
I-009	It is the ninth (009) interpretation provided by the Services Area
1/12/81	It was issued on January 12, 1981

Interpretations 001-043 are policy positions taken prior to the beginning of our formal interpretation process. They represent the department's interpretations of these rules as of this date and will continue to reflect current positions until you are informed of a change in a supplement. Many of these interpretations have been edited to reflect new jargon (EPPC is now IEPC), etc. The dates of these items correspond to the original documents containing the information.

Interpretations 044-058 are interpretations taken from the IEPC Process Booklet published in October of 1980. Interpretations 059-096 are ones that have been developed since the formal process for SESA official interpretations was established. Future interpretations which will come to you in supplements are to be added to these.

The index is provided to assist the reader in determining if an interpretation has been provided and, if so, on what page would it be found. At the end of each part is space for you to write in interpretations sent to you in supplements. Once a year you will receive an updated index.

If interpretations are revised, you will be informed in the next supplement and directed to make the change in your manual.

FEDERAL ANNUAL PROGRAM PLAN (FAPP)

The FAPP is our policy document which outlines our procedures for implementing the rules and regulations for P.L. 94-142 and when approved by the OSED/OSE allows federal dollars to flow to Michigan for special education. The FAPP is approved for a 3-year period. You will receive revisions to the FAPP as they are approved by the State Board of Education.

STATE AID ACT

Each year the Legislature passes the State Aid Act. This Act specifies the funds that shall be available for educational programs. The sections of greatest concern to the special education administrator are sections 51, 52, 53, and 24.

RESOURCES

This part of the manual is self-explanatory. Information is provided regarding the Michigan Department of Education. Manual recipients may wish to refer to this section if a need should arise to contact persons within the Department.

MISCELLANEOUS

This section is reserved for any item(s) you wish to maintain in this manual. Suggestions include: ISD Plan, ISD or LEA Policies, ISD or LEA Resource Directory.

LEVELS OF LEGAL AUTHORITY

Levels of Legal Authority Related to the Education of Handicapped Persons in Michigan

by

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August 22, 1980

The purpose of this article is to clarify the levels of state and federal regulations governing education for the handicapped. Consumers and providers are often confused by seemingly conflicting state and federal laws, rules interpretations, guidelines, hearings, and investigations. This document is intended to help eliminate some of the confusion by identifying the various levels of legal authority and the binding nature of each on the state department, the public schools, and the consumer. While the content and examples deal specifically with special education, the levels of legal authority apply especially to adult education, vocational education, and other federally subsidized state programs.

Federal laws and regulations. It is commonly believed that the federal government has the authority to specify how educational programs will be delivered. The federal government has no constitutional authority over education. Article 10 of the Constitution of the United States of America reads as follows:

> Powers not delegated to the federal government are reserved to the state and the people. Powers not delegated to the United States by the Constitution, or prohibited by it to the states, are reserved to the states respectively or to the people.

A review of the Constitution indicates that education is not one of the powers delegated to the federal government. Therefore, the federal Constitution grants to the state and to the people all powers, authorities, and responsibilities related to education.

By federal Constitution, the Congress is granted the power to collect taxes. The Congress has used this taxing authority to collect money to be redistributed for educational purposes. The Congress, in passing federal education laws, provides funds to be used by the state and establishes conditions that must be followed by the states in order to utilize these funds. For example, if states wish to benefit from funds for the handicapped under Public Law 94-142, The Education of All Handicapped Children's Act, the state must comply with all of the federal rules and regulations promulgated to implement that act. In passing Section 504, The Rehabilitation Act of 1973, the Congress went one step further. This law requires that basic educational rights be provided to all handicapped children if a state is to receive any federal funds. If there is a conflict between the state and the federal statutes relating to education, the state statutes by federal constitution must take precedent. However, if the state does not follow the federal statute, it will lose the funds authorized by the Congress. Most states have changed their statutes and rules to be consistent with federal law in order to gain the maximum amount of federal money available.

The state of Michigan and its local and intermediate school districts have agreed to comply with Public Law 94-142, The Education of All Handicapped Children's Act, in return for federal funds. Section 612(1) of the Act requires that the state verify to the United States Education Department (USED) that the state has policies that assure all handicapped children the right to a free appropriate education. Section 613 requests each state to develop a state plan which describes how the state will comply with the federal law. The State Plan becomes the contract between the federal government and the state. It specifies how the federal law will be implemented in Michigan. The federal law is a very broad authorization document. While it may authorize a variety of service delivery methods, the State Plan may limit these. For example, the federal law authorizes states to purchase services for handicapped persons from non-public schools. The State plan, however, specifies that this type of delivery system will not be used in Michigan since the state constitution and state law prohibit the purchase of instructional services from non-public schools. The United States Education Department's/Office of Special Education (OSE) has the authority to establish policies governing the distribution of federal funds or interpreting federal rules. These policies may be in the form of a general communication to all states or letter of interpretations related to specific issues. These come from the Division of Assistance to States and each has a number, i.e. DAS Bulletin #64. Policy statements are issued with the expectation that recipients of federal dollars will comply with the policy. It is an extension of rule.

Michigan Statutes and Rules

As noted earlier, the responsibility to educate citizens belongs to the states. Michigan expresses this responsibility in Article 8, Section 2 of the Constitution of the State of Michigan of 1963.

> Section 2, The legislature shall maintain and support a system of free public elementary and secondary schools as defined by law. Every school district shall provide for the education of its pupils without discrimination as to religion, creed, race, color or national origin.

The phrase "as defined by law" authorizes the legislature to enact laws governing education in Michigan. The Michigan Department of Education (MDE), local and intermediate school districts (LEAs, ISDs), and the citizens of this state are bound by our Constitution to follow laws enacted by the legislature.

The law mandating special education was Public Act 198 of 1971. This has been included in P. A. 451 of the Public Acts of 1976 or more commonly referred to as the School Code of 1976. The law authorizes the State Board of Education to develop rules which will describe how mandatory special education will be implemented. Once the legislature concurs with administrative rules, they have the effect of law. Rules to implement this law were promulaged and took effect in September of 1973. These rules were revised in January of 1977 and again in August of 1980.

Declaratory Ruling

If a citizen wants to know the application of a rule to his/her situation, the citizen can request a declaratory ruling which is authorized in Section 63 of P. A. 306 of 1969, commonly referred to as the Administrative Procedures Act. A declaratory ruling is binding on the MDE and is binding on the citizen or the public school district requesting the ruling. Declaratory rulings apply only to the specific case for which they are requested.

Guidelines

The Administrative Procedures Act authorizes state agencies to write guidelines which provide more specificity or clarity to the rules. Guidelines also provide suggestions for effectively implementing the rules. Educational guidelines are binding on the MDE because they are approved by the state board of education and therefore, represent the position of the state board. These guidelines, however, are not binding on either public schools or citizens.

State and Intermediate School District Plans

Both the state and the federal government mandate that units of government within their jurisdiction submit planning documents which, when approved, authorize the provision of programs and services specified in the plan and allow funds to flow to the providers.

A) Federal Annual Program Plan - The state of Michigan agrees to follow the federal rules and regulations in return for funds to assist in the education of its handicapped student population. The state plan outlines how Michigan will spend its share of the federal dollars and assures that the federal rules will be adhered to by following procedures specified in the plan.

B) ISD Special Education Plan - Each intermediate school district is required by 380.1701(b) of P. A. 451 to submit a plan to the state board of education each year. This plan outlines the special education programs and services to be provided within the intermediate district and assures the state board that the intermediate and its constituent districts will abide by the state rules governing special education. This ISD plan is a binding on the ISD and all local districts within the ISD.

Official Interpretations

It is often necessary to seek clarification on a specific rule due to multiple interpretations or frequent misunderstanding of the rule's intent. In order to standardize an interpretation of a rule, Special Education Services issues all interpretations under the director's signature. They are clearly identified as official interpretations. An official interpretation is binding on Department of Education staff, but like guidelines is not binding on any citizen or public school. An official interpretation is the determination of the agency administrator on how a rule is to be interpreted by the agency staff.

Consultation

An important responsibility of the MDE is to provide consultation and program suggestions to the citizens of Michigan. These include parents, administrators, consumers, department staff, and legislators and their staff. Any correspondence, written or verbal, between department staff person and a constituent is not binding on the agency, the schools, the citizens, or the department. Advice or assistance is individual in nature and has no binding authority.

Summary

The following chart entitled, "Levels of Legal Authority Related to the Education of Handicapped Persons in Michigan," provides a quick reference for school administrators summarizing levels of legal authority. It includes the legal references which apply to handicapped students; the authorization source; the binding nature of the item on the department of education, the public schools, and the citizens of the state. The chart also provides a review process to be used to change the legal authority and finally an example of each area of discussion.

LEVELS OF LEGAL AUTHORITY RELATED TO THE EDUCATION OF HANDICAPPED PERSONS IN MICHIGAN

	Authorizing Area	Reference	Binds State Agency	Binds The Public Schools	Binds Citizens	Level of Review	Example
I.	State Constitution	Constitution of 1963	Yes	Yes	Yes	Can be amended by a vote of the people or the courts may interpret the constitution's meaning.	Prohibition against expenditures of state funds in private schools.
II.	Statute enacted by the legislature	The constitution of 1963 gives the legislature the authority to enact laws regulating education	Yes	Yes	Yes	a) The constitution gives the legislature the authority to change the law; b) Court can invalidate law if it conflicts with the constitution; c) Attorney General can provide an official interpretation; d) Court or Attorney General can interpret a law if it conflicts with another law or its interpretation is in question.	P.A. 198 of 1971 Michigan Mandatory Special Education Law.
III.	Administrative Rule	Authorized by the statute and promulgated under the Administrative Procedures Act	Yes	Yes	Yes	a) A citizen can request the agency to change the rule; b) the legislature can amend the statute authorizing the rule; c) If the rule is not consistent with the law, a court ruling can be sought invalidating the rule. d) The Attorney General can interpret a rule if its meaning is in question or the Attorney General can provide an opinion if the legality of the rules is in question.	P.A. 198 authorized MDE to write rules on programs, teacher certification, eligibility and district of ISD funds.

	Authorizing Area	Reference	Binds State Agency	Binds The Public Schools	Binds Citizens	Level of Review	Example
IV.	Declaratory Ruling	Administrative Procedures Act being Section 63 P.A. 306 of 1969	Yes	Yes However, the ruling only applies to the case in ques-	Yes If a Citizen is requesting the ruling.	a) A citizen or agency can appeal to the courts to set aside the ruling if inconsistent with the law, administrative rule or did not follow agency procedure for making declaratory rulings.	A citizen wants to know the application of a rule to his/her situation.
V.	State Board approved Guidelines	Administrative procedures Act	Yes	No	No	A citizen can ask the agency to change the guidelines	State Board Policy on discrimination against the handicapped.
VI.	State Plan under P.L. 94-142	a) Agreement between MDE and USED/OSE b) LEA's and ISD's are bound by contracts with MDE to comply as a condition for receipt of Title I and P.L. 94-142 funding.	Yes	Yes	NA	a) Appeal to MDE; b) Request USED/OSE review for consistency with Federal law; c) Request Federal court review.	Michigan's Federal Annual Program Pla under the Education of all Handicapped Children's Act.
VII.	Intermediate Plan under P.A. 451	a) Section 380.1701(b) of P.A. 451 b) R340.1832 of the Michigan Administrative Code	No	Yes	No	a) Local directors or Parent Advisory Committee of the ISD can file objectives prior to approval b) Plan can be amended by ISD with State Board approval.	Wayne ISD plan

Authorizing Area	Reference	Binds State Agency	Binds The Public Schools	Binds Citizens	Level of Review	Example
VIII. Official interpretation made by a state department official	Constitution authorizes leadership, and the statute authorizes the department to administer programs	Binds staff responsible to the department official who made the interpretation	No	No	Citizens who are effected by the interpretation can request that the interpretation be modified or can request higher level official to review the interpretation.	A rule interpretation issued by the Director of Special Education Services Area.
IX. Program suggestions or consultation provided by SESA Staff	Constitution authorizes leadership, and the statute authorizes the department to administer programs	No	No	No	No review needed	Unofficial inte pretation of laws and rules; advice on a problem or concern.

ADMINISTRATIVE PROCEDURES ACT

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ADMINISTRATIVE PROCEDURES ACT OF 1969

Act 306 of 1969

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ADMINISTRATIVE PROCEDURES ACT OF 1969

Act 306, 1969, p. 562; Eff. July 1, 1970

AN ACT to provide for the effect, processing, promulgation, publication and inspection of state agency rules, determinations and other matters; to provide for state agency administrative procedures and contested cases and appeals therefrom in licensing and other matters; to provide for declaratory judgments as to rules; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

CHAPTER 1. GENERAL PROVISIONS

24.201 Administrative procedures; short title.

Sec. 1. This act shall be known and may be cited as the "administrative procedures act of 1969".

HISTORY: New 1969, p. 562, Act 306, Eff. July 1, 1970.

24.203 Definitions; A to G.

Sec. 3. (1) "Adoption of a rule" means that step in the processing of a rule consisting of the formal action of an agency establishing a rule before its promulgation.

(2) "Agency" means a state department, bureau, division, section, board, commission, trustee, authority or officer, created by the constitution, statute, or agency action. It does not include an agency in the legislative or judicial branches of state government, the governor, an agency having direct governing control over an institution of higher education, or the state civil service commission.

(3) "Contested case" means a proceeding, including rate-making, price-fixing, and licensing, in which a determination of the legal rights, duties, or privileges of a named party is required by law to be made by an agency after an opportunity for an evidentiary hearing. When a hearing is held before an agency and an appeal from its decision is taken to another agency, the hearing and the appeal are deemed to be a continuous proceeding as though before a single agency.

(4) "Committee" means the joint committee on administrative rules.

(5) "Court" means the circuit court.

(6) "Guideline" means an agency statement or declaration of policy which the agency intends to follow, which does not have the force or effect of law, and which binds the agency but does not bind any other person.

HISTORY: New 1969, p. 562, Act 306, Eff. July 1, 1970;—Am. 1970, p. 98, Act 40, Imd. Eff. July 1;—Am. 1977, p. 583, Act 108, Eff. Jan. 1, 1978.

24.205 Definitions; L to P.

Sec. 5. (1) "License" includes the whole or part of an agency permit, certificate, approval, registration, charter or similar form of permission required by law, but does not include a license required solely for revenue purposes, or a license or registration issued under Act No. 300 of the Public Acts of 1949, as amended, being sections 257.1 to 257.923 of the Compiled Laws of 1948.

(2) "Licensing" includes agency activity involving the grant, denial, renewal, suspension, revocation, annulment, withdrawal, recall, cancellation or amendment of a license.

(3) "Party" means a person or agency named or admitted, or properly seeking and entitled of right to be admitted, as a party in a contested case.

(4) "Person" means an individual, partnership, association, corporation, governmental subdivision or public or private organization of any kind other than the agency engaged in the particular processing of a rule, declaratory ruling or contested case.

(5) "Processing of a rule" means all action required or authorized by this act as to a rule which is to be promulgated, including its adoption, and ending with its promulgation.

(6) "Promulgation of a rule" means that step in the processing of a rule consisting of the filing of a rule with the secretary of state.

HISTORY: New 1969, p. 563, Act 306, Eff. July 1, 1970.

24.207 Definition of rule.

Sec. 7. "Rule" means an agency regulation, statement, standard, policy, ruling or instruction of general applicability, which implements or applies law enforced or administered by the agency, or which prescribes the organization, procedure or practice of the agency, including the amendment, suspension or rescission thereof, but does not include the following:

(a) A resolution or order of the state administrative board.

(b) A formal opinion of the attorney general.

(c) A rule or order establishing or fixing rates or tariffs.

(d) A rule or order pertaining to game and fish and promulgated under Act No. 230 of the Public Acts of 1925, as amended, being sections 300.1 to 300.5 of the Compiled Laws of 1948, Act No. 165 of the Public Acts of 1929, as amended, being sections 301.1 to 306.3 of the Compiled Laws of 1948 and Act No. 286 of the Public Acts of 1929, as amended, being sections 311.1 to 315.2 of the Compiled Laws of 1948.

(e) A rule relating to the use of streets or highways the substance of which is indicated to the public by means of signs or signals.

(f) A determination, decision or order in a contested case.

(g) An intergovernmental, interagency or intra-agency memorandum, directive or communication which does not affect the rights of, or procedures and practices available to, the public.

(h) A form with instructions, an interpretive statement, a guideline, an informational pamphlet or other material which in itself does not have the force and effect of law but is merely explanatory.

(i) A declaratory ruling or other disposition of a particular matter as applied to a specific set of facts involved.

(j) A decision by an agency to exercise or not to exercise a permissive statutory power, although private rights or interests are affected thereby.

HISTORY: New 1969, p. 563, Act 306, Eff. July 1, 1970.

24.211 Construction of act.

Sec. 11. This act shall not be construed to repeal additional requirements imposed by law.

HISTORY: New 1969, p. 563, Act 306, Eff. July 1, 1970;—Am. 1970, p. 96, Act 40, Imd. Eff. July 1.

CHAPTER 2. GUIDELINES

24.221-24.223 Repealed. 1976, p. 1511, Act 442, Eff. Apr. 13, 1977.

COMPILER'S NOTE. The repealed sections pertained to the publication and public inspection of orders or decisions in contested cases, records, rules, and certain written statements.

24.224 Adoption of guidelines; notice.

Sec. 24. (1) Before adoption of a guideline, an agency shall give notice of the proposed guideline to the joint committee on administrative rules, the legislative service bureau, the office of the governor, and all persons who have requested the agency in writing for advance notice of proposed action which may affect them. The notice shall be given by mail or otherwise in writing to the last address specified by the person. A request for notice is renewable each December.

(2) The notice required by subsection (1) shall include:

(a) A statement of the terms or substance of the proposed guideline, a description of the subjects and issue involved, and the proposed effective date of the guideline.

(b) A statement that the addressee may express any views or arguments regarding the proposed guideline or its effect on any person.

(c) The address to which written comments should be sent and the date by which comments should be mailed, which date shall not be less than 30 days from the date of the mailing of the notice.

(d) A reference to the specific statutory provision or provisions about which the proposed guideline would state a policy.

HISTORY: Add. 1977, p. 584, Act 108, Eff. Jan. 1, 1978.

24.225 Guidelines as public record; distribution of copies.

Sec. 25. When adopted, a guideline is a public record. Copies of guidelines shall be sent to the joint committee on administrative rules, the legislative service bureau, the office of the governor, and all persons who have requested the agency in writing for advance notice of proposed action which may affect them.

HISTORY: Add. 1977, p. 584, Act 108, Eff. Jan. 1, 1978.

24.226 Adoption of guidelines in lieu of rules prohibited.

Sec. 26. An agency shall not adopt a guideline in lieu of a rule.

HISTORY: Add. 1977, p. 584, Act 108, Eff. Jan. 1, 1978.

CHAPTER 3. PROCEDURES FOR PROCESSING AND PUBLISHING RULES

24.231 Rules; continuation, amendment, rescission.

Sec. 31. (1) Rules which became effective before July 1, 1970 continue in effect until amended or rescinded.

(2) When a law authorizing or directing an agency to promulgate rules is repealed and substantially the same rule-making power or duty is vested in the same or a successor agency by a new provision of law or the function of the agency to which the rules are related is transferred to another agency, by law or executive order, the existing rules of the original agency relating thereto continue in effect until amended or rescinded, and the agency or successor agency may

rescind any rule relating to the function. When a law creating an agency or authorizing or directing it to promulgate rules is repealed or the agency is abolished and substantially the same rule-making power or duty is not vested in the same or a successor agency by a new provision of law and the function of the agency to which the rules are related is not transferred to another agency, the existing applicable rules of the original agency are automatically rescinded as of the effective date of the repeal of such law or the abolition of the agency.

(3) The rescission of a rule does not revive a rule which was previously rescinded.

(4) The amendment or rescission of a valid rule does not defeat or impair a right accrued, or affect a penalty incurred, under the rule.

(5) A rule may be amended or rescinded by another rule which constitutes the whole or a part of a filing of rules or as a result of an act of the legislature.

HISTORY: New 1969, p. 564, Act 306, Eff. July 1, 1970;—Am. 1970, p. 98, Act 40, Imd. Eff. July 1.

24.232 Statutory construction rules; discrimination; crimes; adoption by reference.

Sec. 32. (1) Definitions of words and phrases and rules of construction prescribed in any statute, and which are made applicable to all statutes of this state, also apply to rules unless clearly indicated to the contrary.

(2) A rule or exception to a rule shall not discriminate in favor of or against any person, and a person affected by a rule is entitled to the same benefits as any other person under the same or similar circumstances.

(3) The violation of a rule is a crime when so provided by statute. A rule shall not make an act or omission to act a crime or prescribe a criminal penalty for violation of a rule.

(4) An agency may adopt, by reference in its rules and without publishing the adopted matter in full, all or any part of a code, standard or regulation which has been adopted by an agency of the United States or by a nationally recognized organization or association. The reference shall fully identify the adopted matter by date and otherwise. The reference shall not cover any later amendments and editions of the adopted matter, but if the agency wishes to incorporate them in its rule it shall amend the rule or promulgate a new rule therefor. The agency shall have available copies of the adopted matter for inspection and distribution to the public at cost and the rules shall state where copies of the adopted matter are available from the agency and the agency of the United States or the national organization or association and the cost thereof as of the time the rule is adopted.

HISTORY: New 1969, p. 564, Act 306, Eff. July 1, 1970;—Am. 1970, p. 97, Act 40, Imd. Eff. July 1.

24.233 Organization, operations and procedures rules.

Sec. 33. (1) An agency shall promulgate rules describing its organization and stating the general course and method of its operations and may include therein forms with instructions. Sections 41 and 42 do not apply to such rules.

(2) An agency shall promulgate rules prescribing its procedures available to the public and the methods by which the public may obtain information and submit requests.

(3) An agency may promulgate rules, not inconsistent with this act or other applicable statutes, prescribing procedures for contested cases.

HISTORY: New 1969, p. 565, Act 306, Eff. July 1, 1970.

24.235 Joint committee on administrative rules; creation; appointment and terms of members; expenses; meetings; hearings; action by committee; report.

Sec. 35. The joint committee on administrative rules is created and consists of 5 members of the senate and 5 members of the house of representatives appointed in the same manner as standing committees are appointed for terms of 2 years. Members of the committee shall serve without compensation but shall be reimbursed for expenses incurred in the business of the committee, the expenses of the members of the senate to be paid from appropriations to the senate and the expenses of the members of the house to be paid from appropriations to the house of representatives. The committee may meet during a session of the legislature and during an interim between sessions. The committee may hold a hearing on a rule transmitted to it. Action by the committee, including that under section 52, shall be by concurring majorities of the members from each house. The committee shall report its activities and recommendations to the legislature at each regular session.

HISTORY: New 1969, p. 566, Act 306, Eff. July 1, 1970;—Am. 1978, p. 556, Act 243, Imd. Eff. June 19.

24.236 Joint committee on administrative rule procedures and standards for rules.

Sec. 36. The joint committee on administrative rules may prescribe procedures and standards not inconsistent with this act or other applicable statutes, for the drafting, processing, publication and distribution of rules. The procedures and standards shall be included in a manual which the legislative service bureau shall publish and distribute in reasonable quantities to the state departments.

HISTORY: New 1969, p. 565, Act 306, Eff. July 1, 1970.

24.238 Filing of requests by individuals for promulgation of certain rules.

Sec. 38. A person may request an agency to promulgate a rule. Within 90 days after filing of a request, the agency shall initiate the processing of a rule or issue a concise written statement of its principal reasons for denial of the request. The denial of a request is not subject to judicial review.

HISTORY: New 1969, p. 565, Act 306, Eff. July 1, 1970.

24.241 Notice of public hearing before adoption of rule; opportunity to present data, views, and arguments; time, contents, and transmittal of notice; renewal of requests for notices; provisions governing public hearing; presence and participation of certain persons at public hearing required.

Sec. 41. (1) Before the adoption of a rule, an agency shall give notice of a public hearing and offer any person an opportunity to present data, views and arguments. The notice shall be given within the time prescribed by any applicable statute, or if none then not less than 10 days nor more than 60 days before the public hearing. The notice shall include:

(a) A reference to the statutory authority under which the action is proposed.

(b) The time and place of the public hearing and a statement of the manner in which data, views and arguments may be submitted to the agency at other times by any person.

(c) A statement of the terms or substance of the proposed rule or a description of the subjects and issues involved, and the proposed effective date of the rule.

(2) The agency shall transmit copies of the notice to the joint committee on administrative rules, the legislative service bureau, the office of the governor and all persons who have requested the agency in writing for advance notice of proposed action which may affect them. The notices shall be by mail or otherwise in writing to the last address specified by the person. Requests for notices shall be renewed each December.

(3) The public hearing shall comply with any applicable statute but is not subject to the provisions of this act governing contested cases.

(4) The head of the promulgating agency or 1 or more persons designated by the head of the agency, who shall have knowledge of the subject matter of the proposed rule, shall be present at the public hearing and shall participate in any discussion of the proposed rule.

HISTORY: New 1969, p. 588, Act 306, Eff. July 1, 1970;—Am. 1977, p. 584, Act 108, Eff. Jan. 1, 1978.

24.241a Request by legislator for copies of proposed rules or changes in rules.

Sec. 41a. A member of the legislature may annually submit a written request to the legislative service bureau requesting that a copy of all proposed rules or changes in rules, or any designated proposed rules or changes in rules submitted to the legislative service bureau for its approval, be transmitted to the requesting member upon receipt of the same by the legislative service bureau.

HISTORY: Add. 19[illegible], p. 357, Act 171, Imd. Eff. Dec. 2.

24.242 Notice of public hearings on rules; publication of notice.

Sec. 42. The agency shall publish the notice as prescribed in any applicable statute, or if none then in a manner selected by the agency as best calculated to give notice to persons likely to be affected by the proposed rule. Methods that may be employed by the agency, depending upon the circumstances, include publication of the notice in 1 or more newspapers of general circulation or, when appropriate, in trade, industry, governmental or professional publications. If the persons likely to be affected by the proposed rule are unorganized or diffuse in character and location then the agency shall publish the notice as a display advertisement in at least 3 newspapers of general circulation in different parts of the state, 1 of which shall be published in the Upper Peninsula.

HISTORY: New 1969, p. 588, Act 306, Eff. July 1, 1970.

24.243 Notice of public hearings on rules; noncompliance with requirements; contest for noncompliance.

Sec. 43. (1) A rule hereafter promulgated is not valid unless processed in substantial compliance with sections 41 and 42. However, inadvertent failure to give the notice to any person as required by section 41 does not invalidate a rule processed thereunder.

(2) A proceeding to contest a rule on the ground of noncompliance with the procedural requirements of sections 41 and 42 shall be commenced within 2 years after the effective date of the rule.

HISTORY: New 1969, p. 588, Act 306, Eff. July 1, 1970.

24.244 Notice of public hearings on rules; exceptions to requirements.

Sec. 44. Sections 41 and 42 do not apply to an amendment or rescission of a rule which is obsolete or superseded, or which is required to make obviously needed corrections to make the rule conform to an amended or new statute or to accomplish any other solely formal purpose, if a statement to such effect is included in the legislative service bureau certificate of approval of the rule.

HISTORY: New 1969, p. 506, Act 306, Eff. July 1, 1970.

24.245 Approval of rules by legislative service bureau, attorney general, and joint committee on administrative rules; certificates of approval; consideration of rules by committee within 2 months; exception as to emergency rules; extension of time to 3 months; procedure if committee disapproves rules or certifies impasse; procedure if committee neither approves nor disapproves rules nor certifies impasse; withdrawal and resubmission of rules; adoption of rules by agency; record; attachment of certificates of approval and adoption.

Sec. 45. (1) The legislative service bureau shall promptly approve a proposed rule when it deems it proper as to all matters of form, classification, arrangement, and numbering. The department of the attorney general shall promptly approve a proposed rule when it deems it to be legal.

(2) After the legislative service bureau and attorney general have approved a proposed rule but before the agency has formally adopted the rule, the agency shall transmit by letter copies of the rule bearing certificates of approval and copies of the rule without certificates to the joint committee on administrative rules. After its receipt of the agency's letter of transmittal, the committee shall have 2 months in which to consider the rule. This subsection does not apply to an emergency rule.

(3) If the committee approves the proposed rule within the 2 months, it shall attach a certificate of its approval to all copies of the rule bearing certificates except 1 and transmit those copies to the agency. If, by a majority vote of the committee, added time to consider rules is needed, the committee may extend the time on a particular rule to 3 months.

(4) If the committee disapproves the proposed rule or certifies an impasse within the 2 months, it shall immediately report that fact to the legislature and return the rule to the agency. The agency shall not adopt or promulgate the rule unless 1 of the following occurs:

(a) The legislature adopts a concurrent resolution approving the rule within 60 days after receiving the report.

(b) The committee subsequently approves the rule.

(5) If the committee neither approves or disapproves the proposed rule nor certifies an impasse before the expiration of the time permitted by this section, the committee shall return the rule to the agency and cause concurrent resolutions approving the rule to be introduced in both houses simultaneously and placed directly on the calendar of each house. The agency shall not adopt or promulgate the rule unless 1 of the following occurs:

(a) The legislature adopts a concurrent resolution approving the rule within 60 days after introduction by record roll call vote and its adoption shall require a majority of the members elected to and serving in each house.

(b) The agency resubmits the proposed rule to the committee which approves it within 2 months of its resubmission.

(6) An agency may withdraw a proposed rule by leave of the committee. An agency may resubmit a rule so withdrawn or returned under subsection (4) with minor modification. Such a rule is a new filing and subject to this section but is not subject to further notice and hearing as provided in sections 41 and 42.

(7) If the committee approves the proposed rule within the 2 months or the legislature adopts a concurrent resolution approving the rule, the agency, if it wishes to proceed, shall formally adopt the rule, in accordance with any applicable statute, and make a written record thereof. Certificates of approval and adoption shall be attached to at least 6 copies of the rules.

HISTORY: New 1969, p. 566, Act 306, Eff. July 1, 1970;—Am. 1971, p. 557, Act 171, Imd. Eff. Dec. 2;—Am. 1977, p. 585, Act 108, Eff. Jan. 1, 1978;—Am. 1978, p. 557, Act 243, Imd. Eff. June 19.

24.246 Promulgation of rules; procedure; arrangement, binding, certification, and inspection of rules.

Sec. 46. (1) To promulgate a rule an agency shall file in the office of the secretary of state 3 copies of the rule bearing the required certificates of approval and adoption and true copies of the rule without the certificates. An agency shall not file a rule, except an emergency rule under section 48, until at least 10 days after the date of the certificate of approval by the committee or after the legislature adopts a concurrent resolution approving the rule. An agency shall transmit a copy of the rule bearing the required certificates of approval and adoption to the office of the governor at least 10 days before it files the rule.

(2) The secretary of state shall indorse the date and hour of filing of rules on the 3 copies of the filing bearing the certificates and shall maintain a file containing 1 copy for public inspection.

(3) The secretary of state, as often as he deems it advisable, shall cause to be arranged and bound in a substantial manner the rules hereafter filed in his office with their attached certificates and published in a supplement to the Michigan administrative code. He shall certify under his hand and seal of the state on the frontispiece of each volume that it contains all of the rules filed and published for a specified period. The rules, when so bound and certified, shall be kept in the office of the secretary of state and no further record thereof is required to be kept. The bound rules are subject to public inspection.

HISTORY: New 1969, p. 567, Act 306, Eff. July 1, 1970;—Am. 1971, p. 558, Act 171, Imd. Eff. Dec. 2;—Am. 1977, p. 586, Act 108, Eff. Jan. 1, 1978.

24.247 Effective date of rules; withdrawal or rescission of promulgated rules; notice of withdrawal.

Sec. 47. (1) Except in case of a rule processed under section 48, a rule becomes effective on the date fixed in the rule, which shall not be earlier than 15 days after the date of its promulgation, or if a date is not so fixed then on the date of its publication in the Michigan administrative code or a supplement thereto.

(2) Except in case of a rule processed under section 48, an agency may withdraw a promulgated rule which has not become effective by a written request stating reasons, (a) to the secretary of state on or before the last day for filing rules for the interim period in which the rules were first filed, or (b) to the secretary of state and the legislative service bureau, within a reasonable time as determined by the bureau, after the last day for filing and before publication of the rule in the next supplement to the code. In any other case an agency may abrogate its rule only by rescission. When an agency has withdrawn a promulgated rule, it shall give notice, stating reasons, to the joint committee on administrative rules that the rule has been withdrawn.

HISTORY: New 1969, p. 567, Act 306, Eff. July 1, 1970;—Am. 1971, p. 559, Act 171, Imd. Eff. Dec. 2;—Am. 1977, p. 586, Act 108, Eff. Jan. 1, 1978.

24.248 Emergency rules.

Sec. 48. (1) If an agency finds that preservation of the public health, safety, or welfare requires promulgation of an emergency rule without following the notice and participation procedures required by sections 41 and 42 and states in the rule its reasons for that finding, and the governor concurs in the finding of emergency, the agency may dispense with all or part of the procedures and file in the office of the secretary of state the copies prescribed by section 46 indorsed as an emergency rule, to 3 of which copies shall be attached the certificates prescribed by section 45 and the governor's certificate concurring in the finding of emergency. The emergency rule is effective on filing and remains in effect until a date fixed in the rule or 6 months after the date of its filing, whichever is earlier. The rule may be extended once for not more than 6 months by filing of a governor's certificate of the need for the extension with the office of the secretary of state before expiration of the emergency rule. An emergency rule shall not be numbered and compiled in a supplement to the Michigan administrative code, but shall be noted in the code.

(2) If the agency desires to promulgate an identical or similar rule with an effectiveness beyond the final effective date of an emergency rule, it shall comply with procedures prescribed by this act for processing of a rule which is not an emergency rule. The rule shall be published in a supplement to the code.

(3) The legislature by a concurrent resolution may rescind an emergency rule promulgated pursuant to this section.

HISTORY: New 1969, p. 567, Act 306, Eff. July 1, 1970;—Am. 1977, p. 187, Act 52, Imd. Eff. Aug. 2.

24.249 Filed rules; distribution.

Sec. 49. (1) The secretary of state shall transmit or mail forthwith, after copies of rules are filed in his office, copies on which the day and hour of such filing have been indorsed, as follows:

(a) To the secretary of the joint committee on administrative rules and the legislative service bureau.

(b) To the secretary of the senate and the clerk of the house of representatives for distribution by them to each member of the senate and the house of representatives. When the legislature is not in session, or is in session but will not meet for more than 10 days after the secretary and clerk have received the rules, the secretary and clerk shall mail 1 copy to each member of the legislature at his home address.

(2) The secretary of the senate and clerk of the house of representatives shall present the rules to the senate and the house of representatives.

HISTORY: New 1969, p. 567, Act 306, Eff. July 1, 1970.

24.250 Legislative standing committees; functions.

Sec. 50. When the legislature is in session the joint committee shall notify the appropriate standing committee of each house of the legislature when rules have been transmitted to the committee by the secretary of state. If the joint committee determines that a hearing on such rules is to be held it shall notify the chairmen of the standing committees and all members of the standing committees may be present and take part in the hearing. The chairman or a designated member of the standing committee should be present at the hearing but their absence does not affect the validity of the hearing.

HISTORY: New 1969, p. 568, Act 306, Eff. July 1, 1970.

24.251 Amendment and rescission of rules by legislature.

Sec. 51. If the joint committee on administrative rules, an appropriate standing committee or a member of the legislature believes that a promulgated rule or any part thereof is unauthorized, is not within legislative intent or is inexpedient, the committee or member may do either or both of the following:

(a) Introduce a concurrent resolution at a regular or special session of the legislature expressing the determination of the legislature that the rule should be amended or rescinded. Adoption of the concurrent resolution constitutes legislative disapproval of the rule, but rejection of the resolution does not constitute legislative approval of the rule.

(b) Introduce a bill at a regular session, or special session if included in a governor's message, which in effect amends or rescinds the rule

HISTORY: New 1969, p. 588, Act 306, Eff. July 1, 1970.

24.252 Suspension of rules by joint committee on administrative rules.

Sec. 52. If authorized by concurrent resolution of the legislature, the joint committee on administrative rules, acting between regular sessions, may suspend a rule or any part thereof promulgated during the interim between regular sessions. The committee shall notify the agency promulgating the rule, the secretary of state, the department of administration and the legislative service bureau of any rule or part thereof it suspends, and the rule or part thereof shall not be published in the Michigan administrative code while so suspended. A rule suspended by the committee continues to be suspended until the end of the next regular session.

HISTORY: New 1969, p. 588, Act 306, Eff. July 1, 1970.

24.255 Michigan administrative code; publication and contents of quarterly and annual supplements; adoption of system and adjustments by legislative service bureau; publication of code and quarterly supplements in loose-leaf form; time; public subscription fee.

Sec. 55. (1) The department of management and budget shall publish interim supplements to the Michigan administrative code periodically but not less frequently than quarterly, and annual supplements. An interim supplement shall contain all rules filed in a period ending 30 days before the end of the preceding interim, a table of contents, a publication date and the interim period covered by the rules contained therein. An annual supplement shall contain all rules published in the interim supplements for the preceding year, cumulative numerical listing of amendments and additions to, and rescissions of, rules since the last publication of the code and a cumulative alphabetical index.

(2) The legislative service bureau may adopt a system of supplements, and necessary adjustments, which do not coincide with a calendar year or which would eliminate publication of a final interim supplement for any annual period by publication of the rules therefor in the annual supplement for that period.

(3) The department of management and budget shall publish at least every 10 years all rules promulgated by each agency and remaining in effect in a publication to be known as the Michigan administrative code.

(4) The department of management and budget shall publish, or cause to be published, before July 1, 1979, the Michigan administrative code in loose-leaf form, fully indexed with respect to department, promulgating agency, subject matter, and authorizing public act. After that date the department shall

supplement, or cause to be supplemented, quarterly the loose-leaf form of the code and its index. The requirements of this subsection shall be in lieu of the requirements of subsections (1), (2), and (3).

(5) The Michigan administrative code and its supplements shall be made available for public subscription at a fee reasonably calculated to cover printing and distribution costs.

HISTORY: New 1969, p. 568, Act 306, Eff. July 1, 1970;—Am. 1977, p. 587, Act 108, Eff. Jan. 1, 1978.

24.256 Publication of rules; editorial work, form, time.

Sec. 56. (1) The legislative service bureau shall perform the editorial work for the Michigan administrative code and its interim and annual supplements so that the classification, arrangement, numbering and indexing of rules will be uniform and conform as nearly as practical to those of the compiled laws. The bureau may correct in the publications obvious errors in rules when requested by the promulgating agency to do so. The bureau may provide for publishing all or any part of the code in pamphlet or loose leaf form.

(2) An interim supplement shall be published not later than 45 days after the end of the interim period covered thereby. An annual supplement shall be published at the earliest practicable date.

HISTORY: New 1969, p. 569, Act 306, Eff. July 1, 1970.

24.257 Publication of rules; omissions permitted; cost of publication.

Sec. 57. (1) The legislative service bureau may omit from the Michigan administrative code or its supplements, or any of them, any rule, the publication of which would be unduly expensive, lengthy or of interest to relatively few persons, if the rule in printed or reproduced form is made available on application to the promulgating agency, and if the code publication contains a notice stating the general subject of the omitted rule and how a copy thereof may be obtained.

(2) The cost of publishing and printing interim and annual supplements shall be prorated by the department of administration on the basis of the volume of rules of each agency included in the supplements, and the cost thereof shall be paid out of appropriations to the agencies.

HISTORY: New 1969, p. 569, Act 306, Eff. July 1, 1970.

24.258 Publication of rules; retention of type; printing separate pamphlets for agencies.

Sec. 58. (1) The legislative service bureau shall acquire and maintain those parts of the type used in printing the Michigan administrative code and its supplements for rules currently in effect. Any part of such type shall be used in printing for the agency such parts of the rules, with reimbursement for the expense of such use, as may be agreed by the agency and the bureau.

(2) The code shall be arranged and printed so as to make convenient the publication in separate pamphlets of the parts of the code relating to different agencies. Agencies may order such separate pamphlets and the cost thereof shall be paid out of appropriations to the agencies.

HISTORY: New 1969, p. 569, Act 306, Eff. July 1, 1970.

24.259 Publication of rules; distribution.

Sec. 59. (1) The department of administration shall order printed a sufficient number of copies of the Michigan administrative code and its supplements to meet the requirements of this section. The department shall deliver or mail copies as follows:

(a) To the secretary of the senate a sufficient number to supply each senator, standing committee and such secretary.

(b) To the clerk of the house of representatives a sufficient number to supply each representative, standing committee and such clerk.

(c) To each member of the legislature 1 copy at his home address.

(d) To the legislative service bureau 1 copy for each attorney on its staff.

(e) To the department of the attorney general 25 copies.

(f) To each other state department 3 copies.

(g) To each county law library, bar association library and law school library in this state 1 copy.

(h) Additional copies to such officers and agencies and any other governmental officers and agencies and libraries when approved by the legislative service bureau.

(2) Such copies are for official use only by such agencies and persons and they shall deliver them to their successors, except that members of the legislature may retain copies of the code sent to their home addresses. The department of administration shall send to the home address of a new member of the legislature a complete copy of the code. The department shall deliver to the state library copies of the code and its supplement when requested by it sufficient for its use and for exchanges. The department shall hold additional copies for sale at a price not less than publication cost which shall be determined by the department.

HISTORY: New 1969, p. 569, Act 306, Eff. July 1, 1970.

24.261 Filing and publication of rules; presumptions arising therefrom; judicial notice.

Sec. 61. (1) The filing of a rule under this act raises a rebuttable presumption that the rule was duly adopted, filed with the secretary of state, and made available for public inspection as required by this act.

(2) The publication of a rule in the Michigan administrative code or a supplement raises a rebuttable presumption that:

(a) The rule was duly adopted, filed with the secretary of state, and made available for public inspection as required by this act.

(b) The rule printed in the publication is a true and correct copy of the promulgated rule.

(c) All requirements of this act relative to such rule have been complied with.

(3) The courts shall take judicial notice of a rule which becomes effective under this act.

HISTORY: New 1969, p. 570, Act 306, Eff. July 1, 1970.

24.263 Declaratory ruling by agency as to applicability of rule.

Sec. 63. On request of an interested person, an agency may issue a declaratory ruling as to the applicability to an actual state of facts of a statute administered by the agency or of a rule or order of the agency. An agency shall prescribe by rule the form for such a request and procedure for its submission, consideration and disposition. A declaratory ruling is binding on the agency and the person requesting it unless it is altered or set aside by any court. An agency may not retroactively change a declaratory ruling, but nothing in this subsection prevents an agency from prospectively changing a declaratory ruling. A declaratory ruling is subject to judicial review in the same manner as an agency final decision or order in a contested case.

HISTORY: New 1969, p. 570, Act 308, Eff. July 1, 1970.

24.264 Declaratory judgment as to validity or applicability of rule.

Sec. 64. Unless an exclusive procedure or remedy is provided by a statute governing the agency, the validity or applicability of a rule may be determined in an action for declaratory judgment when the court finds that the rule or its threatened application interferes with or impairs, or imminently threatens to interfere with or impair, the legal rights or privileges of the plaintiff. The action shall be filed in the circuit court of the county where the plaintiff resides or has his principal place of business in this state or in the circuit court for Ingham county. The agency shall be made a party to the action. An action for declaratory judgment may not be commenced under this section unless the plaintiff has first requested the agency for a declaratory ruling and the agency has denied the request or failed to act upon it expeditiously. This section shall not be construed to prohibit the determination of the validity or applicability of the rule in any other action or proceeding in which its invalidity or inapplicability is asserted.

HISTORY: New 1969, p. 570, Act 308, Eff. July 1, 1970.

CHAPTER 4. PROCEDURES IN CONTESTED CASES

24.271 Contested cases; time and notice of hearings.

Sec. 71. (1) The parties in a contested case shall be given an opportunity for a hearing without undue delay.

(2) The parties shall be given a reasonable notice of the hearing, which notice shall include:

(a) A statement of the date, hour, place and nature of the hearing. Unless otherwise specified in the notice the hearing shall be held at the principal office of the agency.

(b) A statement of the legal authority and jurisdiction under which the hearing is to be held.

(c) A reference to the particular sections of the statutes and rules involved.

(d) A short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is given, the initial notice may state the issues involved. Thereafter on application the agency or other party shall furnish a more definite and detailed statement on the issues.

HISTORY: New 1969, p. 570, Act 308, Eff. July 1, 1970.

24.272 Defaults, written answers, evidence, argument, cross-examination.

Sec. 72. (1) If a party fails to appear in a contested case after proper service of notice, the agency, if no adjournment is granted, may proceed with the hearing and make its decision in the absence of the party.

(2) A party who has been served with a notice of hearing may file a written answer before the date set for hearing.

(3) The parties shall be given an opportunity to present oral and written arguments on issues of law and policy and an opportunity to present evidence and argument on issues of fact.

(4) A party may cross-examine a witness, including the author of a document prepared by, on behalf of, or for use of the agency and offered in evidence. A party may submit rebuttal evidence.

HISTORY: New 1969, p. 571, Act 306, Eff. July 1, 1970.

24.273 Subpoenas; issuance; revocation.

Sec. 73. An agency authorized by statute to issue subpoenas, when a written request is made by a party in a contested case, shall issue subpoenas forthwith requiring the attendance and testimony of witnesses and the production of evidence including books, records, correspondence and documents in their possession or under their control. On written request, the agency shall revoke a subpoena if the evidence, the production of which is required, does not relate to a matter in issue, or if the subpoena does not describe with sufficient particularity the evidence the production of which is required, or if for any other reason sufficient in law the subpoena is invalid. Witness fees shall be paid to subpoenaed witnesses in accordance with section 2552 of Act No. 236 of the Public Acts of 1961, as amended, being section 600.2552 of the Compiled Laws of 1948. In case of refusal to comply with a subpoena, the party on whose behalf it was issued may file a petition, in the circuit court for Ingham county or for the county in which the agency hearing is held, for an order requiring compliance.

HISTORY: New 1969, p. 571, Act 306, Eff. July 1, 1970;—Am. 1970, p. 97, Act 40, Imd. Eff. July 1.

24.274 Oaths; depositions; disclosure of agency records.

Sec. 74. (1) An officer of an agency may administer an oath or affirmation to a witness in a matter before the agency, certify to official acts and take depositions. A deposition may be used in lieu of other evidence when taken in compliance with the general court rules. An agency authorized to adjudicate contested cases may adopt rules providing for discovery and depositions to the extent and in the manner appropriate to its proceedings.

(2) An agency that relies on a witness in a contested case, whether or not an agency employee, who has made prior statements or reports with respect to the subject matter of his testimony, shall make such statements or reports available to opposing parties for use on cross-examination. On a request for identifiable agency records, with respect to disputed material facts involved in a contested case, except records related solely to the internal procedures of the agency or which are exempt from disclosure by law, an agency shall make such records promptly available to a party.

HISTORY: New 1969, p. 571, Act 306, Eff. July 1, 1970.

24.275 Evidence; admissibility, objections, submission in written form.

Sec. 75. In a contested case the rules of evidence as applied in a nonjury civil case in circuit court shall be followed as far as practicable, but an agency may admit and give probative effect to evidence of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. Irrelevant, immaterial or unduly repetitious evidence may be excluded. Effect shall be given to the rules of privilege recognized by law. Objections to offers of evidence may be made and shall be noted in the record. Subject to these requirements, an agency, for the purpose of expediting hearings and when the interests of the parties will not be substantially prejudiced thereby, may provide in a contested case or by rule for submission of all or part of the evidence in written form.

HISTORY: New 1969, p. 571, Act 306, Eff. July 1, 1970;—Am. 1970, p. 97, Act 40, Imd. Eff. July 1.

24.276 Evidence to be entered on record; documentary evidence.

Sec. 76. Evidence in a contested case, including records and documents in possession of an agency of which it desires to avail itself, shall be offered and made a part of the record. Other factual information or evidence shall not be considered in determination of the case, except as permitted under section 77. Documentary evidence may be received in the form of a copy or excerpt, if the original is not readily available, or may be incorporated by reference, if the materials so incorporated are available for examination by the parties. Upon timely request, a party shall be given an opportunity to compare the copy with the original when available.

HISTORY: New 1969, p. 572, Act 306, Eff. July 1, 1970.

24.277 Official notice of facts; evaluation of evidence.

Sec. 77. An agency in a contested case may take official notice of judicially cognizable facts, and may take notice of general, technical or scientific facts within the agency's specialized knowledge. The agency shall notify parties at the earliest practicable time of any noticed fact which pertains to a material disputed issue which is being adjudicated, and on timely request the parties shall be given an opportunity before final decision to dispute the fact or its materiality. An agency may use its experience, technical competence and specialized knowledge in the evaluation of evidence presented to it.

HISTORY: New 1969, p. 572, Act 306, Eff. July 1, 1970;—Am. 1970, p. 98, Act 40, Imd. Eff. July 1.

24.278 Stipulations; dispostion of cases, methods.

Sec. 78. (1) The parties in a contested case by a stipulation in writing filed with the agency may agree upon any fact involved in the controversy, which stipulation shall be used as evidence at the hearing and be binding on the parties thereto. Parties are requested to thus agree upon facts when practicable.

(2) Except as otherwise provided by law, disposition may be made of a contested case by stipulation, agreed settlement, consent order, waiver, default or other method agreed upon by the parties.

HISTORY: New 1969, p. 572, Act 306, Eff. July 1, 1970;—Am. 1970, p. 98, Act 40, Imd. Eff. July 1.

24.279 Presiding officers; designation; disqualification, inability.

Sec. 79. An agency, 1 or more members of the agency, a person designated by statute or 1 or more hearing officers designated and authorized by the agency to handle contested cases, shall be presiding officers in contested cases. Hearings shall be conducted in an impartial manner. On the filing in good faith by a party of a timely and sufficient affidavit of personal bias or disqualification of a presiding officer, the agency shall determine the matter as a part of the record in the case, and its determination shall be subject to judicial review at the conclusion of the proceeding. When a presiding officer is disqualified or it is impracticable for him to continue the hearing, another presiding officer may be assigned to continue with the case unless it is shown that substantial prejudice to the party will result therefrom.

HISTORY: New 1969, p. 572, Act 306, Eff. July 1, 1970;—Am. 1970, p. 98, Act 40, Imd. Eff. July 1.

24.280 Presiding officer; powers.

Sec. 80. A presiding officer may:

(a) Administer oaths and affirmations.

(b) Sign and issue subpoenas in the name of the agency, requiring attendance and giving of testimony by witnesses and the production of books, papers and other documentary evidence.

(c) Provide for the taking of testimony by deposition.

(d) Regulate the course of the hearings, set the time and place for continued hearings and fix the time for filing of briefs and other documents.

(e) Direct the parties to appear and confer to consider simplification of the issues by consent of the parties.

HISTORY: New 1969, p. 572, Act 306, Eff. July 1, 1970;—Am. 1970, p. 99, Act 40, Imd. Eff. July 1.

24.281 Proposals for decision; contents.

Sec. 81. (1) When the official or a majority of the officials of the agency who are to make a final decision have not heard a contested case or read the record, the decision, if adverse to a party to the proceeding other than the agency itself, shall not be made until a proposal for decision is served on the parties, and an opportunity is given to each party adversely affected to file exceptions and present written arguments to the officials who are to make the decision. Oral argument may be permitted with consent of the agency.

(2) The proposal for decision shall contain a statement of the reasons therefor and of each issue of fact and law necessary to the proposed decision, prepared by a person who conducted the hearing or who has read the record.

(3) The decision, without further proceedings, shall become the final decision of the agency in the absence of the filing of exceptions or review by action of the agency within the time provided by rule. On appeal from or review of a proposal of decision the agency, except as it may limit the issue upon notice or by rule, shall have all the powers which it would have if it had presided at the hearing.

(4) The parties, by written stipulation or at the hearing, may waive compliance with this section.

HISTORY: New 1969, p. 573, Act 306, Eff. July 1, 1970;—Am. 1970, p. 99, Act 40, Imd. Eff. July 1.

24.282 Communications by agency staff; limitations; exceptions.

Sec. 82. Unless required for disposition of an ex parte matter authorized by law, a member or employee of an agency assigned to make a decision or to make findings of fact and conclusions of law in a contested case shall not communicate, directly or indirectly, in connection with any issue of fact, with any person or party, nor, in connection with any issue of law, with any party or his representative, except on notice and opportunity for all parties to participate. This prohibition begins at the time of the notice of hearing. An agency member may communicate with other members of the agency and may have the aid and advice of the agency staff other than the staff which has been or is engaged in investigating or prosecuting functions in connection with the case under consideration or a factually related case. This section does not apply to an agency employee, or party representative with professional training in accounting, actuarial science, economics, financial analysis or rate-making, in a contested case before the financial institutions bureau, the insurance bureau or the public service commission insofar as the case involves rate-making or financial practices or conditions.

HISTORY: New 1969, p. 573, Act 306, Eff. July 1, 1970;—Am. 1970, p. 99, Act 40, Imd. Eff. July 1.

24.285 Final decisions and orders.

Sec. 85. A final decision or order of an agency in a contested case shall be made, within a reasonable period, in writing or stated in the record and shall include findings of fact and conclusions of law. Findings of fact shall be based exclusively on the evidence and on matters officially noticed. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting them. If a party submits proposed findings of fact which would control the decision or order, the decision or order shall include a ruling upon each proposed finding. Each conclusion of law shall be supported by authority or reasoned opinion. A decision or order shall not be made except upon consideration of the record as a whole or such portion thereof as may be cited by any party to the proceeding and as supported by and in accordance with the competent, material and substantial evidence. A copy of the decision or order shall be delivered or mailed forthwith to each party and to his attorney of record.

HISTORY: New 1969, p. 573, Act 306, Eff. July 1, 1970;—Am. 1970, p. 90, Act 40, Imd. Eff. July 1

24.286 Official records of hearings.

Sec. 86. (1) An agency shall prepare an official record of a hearing which shall include:

(a) Notices, pleadings, motions and intermediate rulings.

(b) Questions and offers of proof, objections and rulings thereon.

(c) Evidence presented.

(d) Matters officially noticed, except matters so obvious that a statement of them would serve no useful purpose.

(e) Proposed findings and exceptions.

(f) Any decision, opinion, order or report by the officer presiding at the hearing and by the agency.

(2) Oral proceedings at which evidence is presented shall be recorded, but need not be transcribed unless requested by a party who shall pay for the transcription of the portion requested except as otherwise provided by law.

HISTORY: New 1969, p. 573, Act 306, Eff. July 1, 1970.

24.287 Rehearings.

Sec. 87. (1) An agency may order a rehearing in a contested case on its own motion or on request of a party.

(2) Where for justifiable reasons the record of testimony made at the hearing is found by the agency to be inadequate for purposes of judicial review, the agency on its own motion or on request of a party shall order a rehearing.

(3) A request for a rehearing shall be filed within the time fixed by this act for instituting proceedings for judicial review. A rehearing shall be noticed and conducted in the same manner as an original hearing. The evidence received at the rehearing shall be included in the record for agency reconsideration and for judicial review. A decision or order may be amended or vacated after the rehearing.

HISTORY: New 1969, p. 573, Act 306, Eff. July 1, 1970;—Am. 1970, p. 90, Act 40, Imd. Eff. July 1.

CHAPTER 5. LICENSES

24.291 Licensing; applicability of contested case provisions; expiration of license.

Sec. 91. (1) When licensing is required to be preceded by notice and an opportunity for hearing, the provisions of this act governing a contested case apply.

(2) When a licensee makes timely and sufficient application for renewal of a license or a new license with reference to activity of a continuing nature, the existing license does not expire until a decision on the application is finally made by the agency, and if the application is denied or the terms of the new license are limited, until the last day for applying for judicial review of the agency order or a later date fixed by order of the reviewing court. This subsection does not affect valid agency action then in effect summarily suspending such license under section 92.

HISTORY: New 1969, p. 574, Act 306, Eff. July 1, 1970.

24.292 Licenses; suspension, revocation, amendment proceedings.

Sec. 92. Before the commencement of proceedings for suspension, revocation, annulment, withdrawal, recall, cancellation or amendment of a license, an agency shall give notice, personally or by mail, to the licensee of facts or conduct which warrant the intended action. The licensee shall be given an opportunity to show compliance with all lawful requirements for retention of the license. If the agency finds that the public health, safety or welfare requires emergency action and incorporates this finding in its order, summary suspension of a license may be ordered effective on the date specified in the order or on service of a certified copy of the order on the licensee, whichever is later, and effective during the proceedings. The proceedings shall be promptly commenced and determined.

HISTORY: New 1969, p. 574, Act 306, Eff. July 1, 1970;—Am. 1970, p. 100, Act 40, Imd. Eff. July 1.

CHAPTER 6. JUDICIAL REVIEW

24.301 Judicial review as of right or by leave.

Sec. 101. When a person has exhausted all administrative remedies available within an agency, and is aggrieved by a final decision or order in a contested case, whether such decision or order is affirmative or negative in form, the decision or order is subject to direct review by the courts as provided by law. Exhaustion of administrative remedies does not require the filing of a motion or application for rehearing or reconsideration unless the agency rules require the filing before judicial review is sought. A preliminary, procedural or intermediate agency action or ruling is not immediately reviewable, except that the court may grant leave for review of such action if review of the agency's final decision or order would not provide an adequate remedy.

HISTORY: New 1969, p. 574, Act 306, Eff. July 1, 1970;—Am. 1970, p. 100, Act 40, Imd. Eff. July 1.

24.302 Judicial review; method.

Sec. 102. Judicial review of a final decision or order in a contested case shall be by any applicable special statutory review proceeding in any court specified by statute and in accordance with the general court rules. In the absence or inadequacy thereof, judicial review shall be by a petition for review in accordance with sections 103 to 105.

HISTORY: New 1969, p. 574, Act 306, Eff. July 1, 1970;—Am. 1970, p. 100, Act 40, Imd. Eff. July 1.

24.303 Petitions for review; place of filing, contents.

Sec. 103. (1) A petition for review shall be filed in the circuit court of the county where petitioner resides or has his principal place of business in this state, or in the circuit court for Ingham county.

(2) A petition for review shall contain a concise statement of:

(a) The nature of the proceedings as to which review is sought.

(b) The facts on which venue is based.

(c) The grounds on which relief is sought.

(d) The relief sought.

(3) The petitioner shall attach to the petition, as an exhibit, a copy of the agency decision or order of which review is sought.

HISTORY: New 1969, p. 575, Act 306, Eff. July 1, 1970.

24.304 Petition for review; filing, time; stay; record; scope.

Sec. 104. (1) A petition shall be filed in the court within 60 days after the date of mailing notice of the final decision or order of the agency, or if a rehearing before the agency is timely requested, within 60 days after delivery or mailing notice of the decision or order thereon. The filing of the petition does not stay enforcement of the agency action but the agency may grant, or the court may order, a stay upon appropriate terms.

(2) Within 60 days after service of the petition, or within such further time as the court allows, the agency shall transmit to the court the original or certified copy of the entire record of the proceedings, unless parties to the proceedings for judicial review stipulate that the record be shortened. A party unreasonably refusing to so stipulate may be taxed by the court for the additional costs. The court may permit subsequent corrections to the record.

(3) The review shall be conducted by the court without a jury and shall be confined to the record. In a case of alleged irregularity in procedure before the agency, not shown in the record, proof thereof may be taken by the court. The court, on request, shall hear oral arguments and receive written briefs.

HISTORY: New 1969, p. 575, Act 306, Eff. July 1, 1970;—Am. 1970, p. 100, Act 40, Imd. Eff. July 1.

24.305 Inadequate record; additional evidence, modification of findings, decision order.

Sec. 105. If timely application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that an inadequate record was made at the hearing before the agency or that the additional evidence is material, and that there were good reasons for failing to record or present it in the proceeding before the agency, the court shall order the taking of additional evidence before the agency on such conditions as the court deems proper. The agency may modify its findings, decision or order because of the additional evidence and shall file with the court the additional evidence and any new findings, decision or order, which shall become part of the record.

HISTORY: New 1969, p. 575, Act 306, Eff. July 1, 1970.

24.306 Grounds for reversals.

Sec. 106. (1) Except when a statute or the constitution provides for a different scope of review, the court shall hold unlawful and set aside a decision or order of an agency if substantial rights of the petitioner have been prejudiced because the decision or order is any of the following:

(a) In violation of the constitution or a statute.

(b) In excess of the statutory authority or jurisdiction of the agency.

(c) Made upon unlawful procedure resulting in material prejudice to a party.

(d) Not supported by competent, material and substantial evidence on the whole record.

(e) Arbitrary, capricious or clearly an abuse or unwarranted exercise of discretion.

(f) Affected by other substantial and material error of law.

(2) The court, as appropriate, may affirm, reverse or modify the decision or order or remand the case for further proceedings.

HISTORY: New 1969, p. 575, Act 306, Eff. July 1, 1970.

CHAPTER 7. MISCELLANEOUS PROVISIONS

24.311 Repeals.

Sec. 111. Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, are repealed.

HISTORY: New 1969, p. 575, Act 306, Eff. July 1, 1970.

24.312 References to repealed acts.

Sec. 112. A reference in any other law to Act No. 88 of the Public Acts of 1943, as amended, or Act No. 197 of the Public Acts of 1952, as amended, is deemed to be a reference to this act.

HISTORY: New 1969, p. 576, Act 306, Eff. July 1, 1970.

24.313 Effective date and applicability.

Sec. 113. This act is effective July 1, 1970, and except as to proceedings then pending applies to all agencies and agency proceedings not expressly exempted.

HISTORY: New 1969, p. 576, Act 306, Eff. July 1, 1970.

24.314 Rules in process.

Sec. 114. When an agency has completed any or all of the processing of a rule pursuant to Act No. 88 of the Public Acts of 1943, as amended, before July 1, 1970, similar processing required by this act need not be completed and the balance of the processing and the publication of the rule shall be completed pursuant to this act. An effective date may be added to such a rule although it was not included in the notice of hearing on the rule pursuant to subsection (1) of section 41, when such notice was given before July 1, 1970.

HISTORY: Add. 1970, p. 100, Act 40, Imd. Eff. July 1.

24.315 Exemptions.

Sec. 115. Chapters 4 and 6 shall not apply to the bureau of worker's disability compensation or the worker's disability compensation appeal board created by Act No. 317 of the Public Acts of 1969, as amended, being sections 418.101 to 418.941 of the Michigan Compiled Laws. Chapter 4 shall not apply to a hearing conducted by the department of corrections pursuant to chapter IIIA of Act No. 232 of the Public Acts of 1953, being sections 791.251 to 791.255 of the Michigan Compiled Laws.

HISTORY: Add. 1970, p. 101, Act 40, Imd. Eff. July 1.—Am. 1979, p. 830, Act 139, Imd. Eff. Nov. 7.

SCHOOL CODE OF 1976
ARTICLE 3

THE SCHOOL CODE OF 1976

Act 451, 1976, p. 1541, Imd. Eff. Jan. 13, 1977

AN ACT to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and classify the laws relating to elementary and secondary education; to provide for the classification, organization, regulation, and maintenance of schools, school districts, and intermediate school districts; to prescribe rights, powers, duties, and privileges of schools, school districts, and intermediate school districts; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to provide for and prescribe the powers and duties of certain boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal certain acts and parts of acts. Am. 1977, p. ____, Act 43, Imd. Eff. June 29.

The People of the State of Michigan enact:

ARTICLE 1

PART 1

GENERAL PROVISIONS

380.1 Short title. [M.S.A. 15.4001]

Sec. 1. This act shall be known and may be cited as "the school code of 1976".

HISTORY: New 1976, p. 1541, Act 451, Imd. Eff. Jan. 13, 1977.

380.2 Meanings of words and phrases. [M.S.A. 15.4002]

Sec. 2. For the purposes of this act, the words and phrases defined in sections 3 to 7 shall have the meanings respectively ascribed to them in those sections.

HISTORY: New 1976, p. 1541, Act 451, Imd. Eff. Jan. 13, 1977.

380.3 Definitions; A to D. [M.S.A. 15.4003]

Sec. 3. (1) "Area" as used in the phrase "area vocational-technical education program" means the geographical territory, both within and without the boundaries of either a K to 12 school district or a community college district, which is designated by the state board as the service area for the operation of an area vocational-technical education program.

(2) "Area vocational-technical education program" means a program of organized, systematic instruction designed to prepare the following persons for useful employment in recognized occupations:

(a) Persons enrolled in high school.

(b) Persons who have completed or left high school and who are available for full-time study in preparation for entering the labor market.

(c) Persons who have entered the labor market and who need training or retraining to achieve stability or advancement in employment.

(3) "Board" or "school board" means the governing body of a local school district or a local act school district unless clearly otherwise stated.

(4) "Boarding school" means a place accepting for board, care, and instruction 5 or more children under 16 years of age.

(5) "Constituent district" means a local school district or special act school district the territory of which is entirely within and is an integral part of an intermediate school district.

(6) "District meeting" means an annual or special meeting of school electors of a primary school district or of a fourth class district under section 112.

HISTORY: New 1976, p. 1541, Act 451, Imd. Eff. Jan. 13, 1977.

380.4 Definitions; E to I. [M.S.A. 15.4004]

Sec. 4. (1) "Educational media center" means a program operated by an intermediate school district and approved by the state board, which provides services to local school districts or constituent districts under section 671.

(2) "Handicapped person" shall be defined by rules promulgated by the state board. Handicaps include, but are not limited to, mental, physical, emotional, behavorial, sensory, and speech handicaps.

(3) "Intermediate school board" means the board of an intermediate school district.

(4) "Intermediate school district" means a corporate body established under part 7.

(5) "Intermediate school district election" means an election called by an intermediate school board and held on the date of the annual school elections of constituent districts or on a date determined by the intermediate school board under sections 661 and 662.

(6) "Intermediate school elector" means a person who is a school elector of a constituent district and who is registered in the city or township in which the person resides.

(7) "Intermediate superintendent" means the superintendent of an intermediate school district.

HISTORY: New 1976, p. 1542, Act 451, Imd. Eff. Jan. 13, 1977.

380.5 Definitions; L to R. [M.S.A. 15.4005]

Sec. 5. (1) "Local act school district" or "special act school district" means a district governed by a special or local act or chapter of a local act. "Local school district" and "local school district board" as used in article 3 includes a local act school district and a local act school district board.

(2) "Membership" means the number of full-time equivalent pupils in a public school as determined by the number of pupils registered for attendance plus pupils received by transfer and minus pupils lost as defined by rules promulgated by the state board.

(3) "Nonpublic school" means a private, denominational, or parochial school.

(4) "Nonregistration school district" means a school district in which registration as a general elector with the city or township clerk of the city or township in which the person resides is not required of school electors.

(5) "Pupil membership count day" of a school district means the fourth Friday following Labor day each school year, except that the membership count day of a school district maintaining school during the entire school year means the following days:

(a) Fourth Friday in July.

(b) Fourth Friday in October.

(c) Fourth Friday in January.

(d) Fourth Friday in April.

(6) "Registration school district" means a school district which conducts its elections under part 13.

(7) "Reorganized intermediate school district" means an intermediate school district formed by consolidation or annexation of 2 or more intermediate school districts under sections 701 and 702.

(8) "Rule" means a rule promulgated pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws.

HISTORY: New 1976, p. 1542, Act 451, Imd. Eff. Jan. 13, 1977.

380.6 Definitions; S. [M.S.A. 15.4006]

Sec. 6. (1) "School bus" means a motor vehicle other than a station wagon or passenger van with a manufacturer's rated seating capacity of 8 or more pupils used for the transportation of school pupils to and from school which either is owned by a school district or, if privately owned, is transporting school pupils under a contract with a local school district, a local act school district, or an intermediate school district. As used in this subsection:

(a) "Passenger van" means a motor vehicle designed to carry not more than 16 passengers, built on a truck chassis, and registered and titled by the secretary of state as a station wagon.

(b) "Station wagon" means a motor vehicle designed to carry not more than 10 passengers and built on a passenger vehicle chassis.

(2) "School district" or "local school district" means:

(a) A primary school district.

(b) A school district of the fourth class.

(c) A school district of the third class.

(d) A school district of the second class.

(e) A school district of the first class.

(3) "School elector" means a person qualified as an elector under section 492 of Act No. 116 of the Public Acts of 1954, as amended, being section 168.492 of the Michigan Compiled Laws, and resident of the school district, local act school district, or intermediate school district on or before the thirtieth day prior to the next ensuing annual or special school election.

(4) "School month" means a 4-week period of 5 days each unless otherwise specified in the teacher's contract.

(5) "Special education building and equipment" means a structure or portion of a structure or personal property accepted, leased, purchased, or otherwise acquired, prepared, or used for special education programs and services.

(6) "Special education personnel" means persons engaged in and having professional responsibility for the training, care, and education of handicapped persons in special education programs and services including, but not limited to, teachers, aides, social workers, diagnostic personnel, physical therapists, occupational therapists, audiologists, teachers of speech and language, instructional media-curriculum specialists, mobility specialists, teacher consultants, supervisors, and directors.

(7) "Special education programs and services" means educational and training services designed for handicapped persons operated by local school districts, local act school districts, intermediate school districts, the Michigan school for the blind, the Michigan school for the deaf, department of mental health, department of social services, or a combination thereof, and ancillary professional services for handicapped persons rendered by agencies approved by the state board. The programs shall include vocational training but need not include academic programs of college or university level.

(8) "State approved nonpublic school" means a nonpublic school which complies with Act No. 302 of the Public Acts of 1921, as amended, being sections 388.551 to 388.558 of the Michigan Compiled Laws.

(9) "State board" means the state board of education unless clearly otherwise stated.

(10) "State department of education" means the department of education created and operating under sections 300 to 305 of Act No. 380 of the Public Acts of 1965, being sections 16.400 to 16.405 of the Michigan Compiled Laws.

(11) "State school aid" means allotments from the general appropriating act for the purpose of aiding in the support of the public schools of the state.

HISTORY: New 1976, p. 1543, Act 451, Imd. Eff. Jan. 13, 1977.

380.7 Definitions; V. [M.S.A. 15.4007]

Sec. 7. (1) "Valuation of a fractional school district" means the sum of the valuations of the fractions thereof, each of which shall be computed in the same manner as the valuation of a whole school district.

(2) "Valuation of the state" means the equalized value as determined by the state board of equalization.

(3) "Valuation of a whole school district" means the total assessed value of the property contained in the district as fixed by the township or city board of review, which in turn is proportionately increased or decreased to the basis of the valuation of the county containing the district as fixed by the county board of equalization, and the result in turn proportionately increased or decreased to the basis of the valuation of the county containing the district as last fixed by the state board of equalization, known as the "state equalized valuation".

(4) "Vocational education" means vocational or technical training or retraining which is given in schools or classes, including field or laboratory work incidental thereto, under public supervision and control, and is conducted as part of a program designed to fit individuals for gainful employment as semiskilled or skilled workers or technicians in recognized occupations, excluding a program to fit individuals for employment in occupations which the state board determines and specifies to be generally considered professional or as requiring a baccalaureate or higher degree. The term includes guidance and counseling in connection with the training and instruction related to the occupation for which the pupil is being trained or necessary for the pupil to benefit from the training. The term includes the acquisition, maintenance, and repair of instructional supplies, teaching aids, and equipment, the construction or initial equipment of buildings, and the acquisition or rental of land.

HISTORY: New 1976, p. 1544, Act 451, Imd. Eff. Jan. 13, 1977.

380.11 Organization of school districts. [M.S.A. 15.4011]

Sec. 11. Each school district, except a district governed by a local act or chapter of a local act, shall be organized and conducted as:

assignee may file with the assessing officer of the proper city or township the certificate of the clerk of the court rendering the judgment, showing the facts which should have been certified by the treasurer.

(3) If the school district or intermediate school district against which a judgment is rendered is situated in 2 or more townships or municipalities, the ceritificate required in subsection (2) shall be delivered to the assessing officer of each township or municipality in which the district is situated.

HISTORY: New 1976, p. 1688, Act 451, Imd. Eff. Jan. 13, 1977.

380.1644 Assessing amount of judgment against property; interest; collection and return. [M.S.A. 15.41644]

Sec. 1644. The assessing officer receiving a certificate of a judgment shall proceed to assess the amount thereof with interest from the date of the judgment to the time when the warrant for its collection will expire upon the taxable property in the school district or intermediate school district, placing the amount on the assessment roll in the column for school taxes. The judgment shall be collected and returned in the same manner as other taxes of the district or intermediate school district.

HISTORY: New 1976, p. 1689, Act 451, Imd. Eff. Jan. 13, 1977.

ARTICLE 3

PART 29

SPECIAL EDUCATION PROGRAMS AND SERVICES; STATE BOARD

380.1701 Duties of state board. [M.S.A. 15.41701]

Sec. 1701. The state board shall:

(a) Develop, establish, and continually evaluate and modify in cooperation with intermediate school boards, a state plan for special education which shall provide for the delivery of special education programs and services designed to develop the maximum potential of every handicapped person. The plan shall coordinate all special education programs and services.

(b) Require each intermediate school board to submit a plan pursuant to section 1711, in accordance with the state plan, to be approved by the state board.

(c) Promulgate rules setting forth the requirements of the plans and procedures for submitting them.

HISTORY: New 1976, p. 1689, Act 451, Imd. Eff. Jan. 13, 1977.

380.1702 Special education programs and services; application for approval of noncomplying programs and services; notice of noncompliance; proof of compliance or emergency; directing provision of complying programs or services; funding; contributing unreimbursed cost. [M.S.A. 15.41702]

Sec. 1702. (1) If a local school district board claims the existence of an emergency due to extreme financial conditions because of insufficient operating funds or due to a severe classroom shortage, which emergency the local school district claims renders it unable to provide special education programs and services in compliance with section 1751, the local school district board shall apply in writing to the state board before July 1 of the particular school year for approval to provide special education programs or services which do not comply with section 1751. The state board may extend the filing date for good cause.

(2) In its application the local school district board shall demonstrate the need to provide noncomplying special education programs and services and shall include the proposed programs and services it is able to provide and the efforts to be undertaken to alleviate the emergency. If the state board finds an emergency exists in the local school district for the school year, the state board may approve the providing of noncomplying special education programs or services and prescribe conditions for those programs and services.

(3) If the state board determines that a local school district is not providing special education programs and services in compliance with section 1751, and the local school district has not obtained prior approval from the state board, the state board shall give the local school district board written notice of the noncompliance. Unless the local school district board submits proof of compliance or of an unforeseen emergency within 30 days after receipt of the notice, the state board shall direct the intermediate school board of which the local school district is constituent to provide complying programs or services. The state board shall direct the intermediate school board to provide only those programs or services which the state board determines the local school district is not providing in compliance with section 1751.

(4) Special education programs or services which the state board directs an intermediate school district to provide shall be funded as if provided by the local school district and the local school district board shall contribute to the intermediate school district the unreimbursed cost of the programs or services.

HISTORY New 1976, p. 1689, Act 451, Imd. Eff. Jan. 13, 1977.

380.1703 Qualifications and requirements for special education personnel; rules relative to special education programs and services. [M.S.A. 15.41703]

Sec. 1703. (1) Special education personnel shall meet the qualifications and requirements of the rules promulgated by the state board.

(2) Curriculum, eligibility of specific persons for special education programs and services and for each particular program or service, review procedures regarding the placement of persons in the programs or services, size of classes, size of programs, quantity and quality of equipment, supplies and housing, adequacy of methods of instruction, and length and content of school day shall be in accordance with rules promulgated by the state board relative to special education programs and services.

HISTORY: New 1976, p. 1690, Act 451, Imd. Eff. Jan. 13, 1977.

PART 30

SPECIAL EDUCATION PROGRAMS AND SERVICES; INTERMEDIATE SCHOOL BOARDS

380.1711 Duties of intermediate school board; expenditures. [M.S.A. 15.41711]

Sec. 1711. (1) The intermediate school board shall:

(a) Develop, establish, and continually evaluate and modify in cooperation with its constituent districts, a plan for special education which shall provide for the delivery of special education programs and services designed to develop the maximum potential of each handicapped person of whom the intermediate school board is required to maintain a record under subdivision (f). The plan shall coordinate the special education programs and services operated or contracted for by the constituent districts and shall be submitted to the state board for its approval.

(b) Contract for the delivery of a special education program or service, in accordance with the intermediate school district plan in compliance with section 1701. Under the contract the intermediate school board may operate special education programs or services and furnish transportation services and room and board.

(c) Employ or engage special education personnel in accordance with the intermediate school district plan, and appoint a director of special education meeting the qualifications and requirements of the rules promulgated by the state board.

(d) Accept and use available funds or contributions from governmental or private sources for the purpose of providing special education programs and services consistent with this article.

(e) Lease, purchase, or otherwise acquire vehicles, sites, buildings, or portions thereof, and equip them for its special education staff, programs, and services.

(f) Maintain a record of each handicapped person under 26 years of age, who is a resident of 1 of its constituent districts and who has not completed a normal course of study and graduated from high school, and the special education programs or services in which the handicapped person is participating on the fourth Friday after Labor day and the Friday before Memorial day. The sole basis for determining the local school district in which a handicapped person is a resident shall be the rules promulgated by the state board notwithstanding the provisions of section 1148. The records shall be maintained in accordance with rules promulgated by the state board.

(g) Have the authority to place in appropriate special education programs or services a handicapped person for whom a constituent district is required to provide special education programs or services under section 1751.

(h) Investigate special education programs and services operated or contracted for by the intermediate school board or constituent district boards and report in writing failures to comply with the provisions of a contract, statute, or rule governing the special education programs and services or with the intermediate school district plan, to the local school district board and to the state board.

(i) Operate the special education programs or services or contract for the delivery of special education programs or services by local school district boards, in accordance with section 1702, as if a local school district under section 1751. The contract shall provide for items stated in section 1751 and shall be approved by the state board. The intermediate school board shall contract for the transportation, or room and board, or both, or persons participating in the program or service as if a local school district board under sections 1756 and 1757.

(j) Receive the report of a parent or guardian or, with the consent of a parent or guardian, receive the report of a licensed physician, registered nurse, social worker, or school or other appropriate professional personnel whose training and relationship to handicapped persons provide competence to judge same and who in good faith believes that a person under 26 years of age examined by the professional is or may be handicapped, and immediately evaluate the person pursuant to rules promulgated by the state board. A person making or filing this report or a local school district board shall not incur liability to a person by reason of filing the report or seeking the evaluation, unless lack of good faith is proven.

(k) Evaluate pupils in accordance with section 1311.

(2) The intermediate school board may expend up to 10% of the annual budget but not to exceed $12,500.00, for special education programs approved by the intermediate school board without having to secure the approval of the state board.

HISTORY New 1976, p. 1690, Act 451, Imd. Eff. Jan. 13, 1977

380.1716 Committee; appointment and duties. [M.S.A. 15.41716]

Sec. 1716. The intermediate school board shall appoint annually a committee of at least 5 persons to consist of at least 2 school superintendents and 3 board members of constituent districts, who, with a person designated by the state board, annually shall visit special education facilities in the intermediate school district and advise the intermediate school board relative to the administration of this article.

HISTORY New 1976, p. 1692, Act 451, Imd. Eff. Jan. 13, 1977

380.1722 Adoption of §§380.1722 to 380.1729; submission of question; election; approval. [M.S.A. 15.41722]

Sec. 1722. (1) The question of adopting sections 1722 to 1729 may be submitted to the school electors of an intermediate school district at an annual election or at a special election held in each of the constituent districts. Sections 1722 to 1729 shall be effective if approved by a majority of the school electors of an intermediate school district voting at an election called and conducted under sections 661 and 662.

(2) Sections 1722 to 1729 shall continue in effect in an intermediate school district reorganized pursuant to section 701.

HISTORY: New 1976, p. 1692, Act 451, Imd. Eff. Jan. 13, 1977.

380.1723 Adoption of §§380.1722 to 380.1729; form of ballot. [M.S.A. 15.41723]

Sec. 1723. The ballot submitting the question of the adoption of sections 1722 to 1729 to the school electors of an intermediate school district shall be substantially in the following form:

"Shall the ____________ (legal name of the intermediate school district), state of Michigan, come under sections 1722 to 1729 of the school code of 1976, which are designed to encourage the education of handicapped persons if the annual property tax levied for administration is limited to ____ mills?

Yes ( )
No ( )"

HISTORY New 1976, p. 1692, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1977, p. ___, Act 43, Imd. Eff. June 29

380.1724 Increasing millage limit; submission of question; election; form of ballot. [M.S.A. 15.41724]

Sec. 1724. An intermediate school board operating under sections 1722 to 1729 may direct that the question of increasing the millage limit on the annual property tax levied for special education be submitted to the school electors of the intermediate school district. The election shall be called and held in the manner provided in sections 661 and 662. The ballot shall be substantially in the following form:

"Shall the ______ mill limitation on the annual property tax previously approved by the electors of the ____________ (legal name of the intermediate school district), state of Michigan, for the education of handicapped persons be increased by ______________ mills?

Yes ( )
No ( )"

HISTORY: New 1976, p. 1682, Act 451, Imd. Eff. Jan. 13, 1977

380.1725 Special education budget; preparation; form; delivery. [M.S.A. 15.41725]

Sec. 1725. An intermediate school board operating under sections 1722 to 1729 shall prepare annually a special education budget which shall be in the same form as that provided for local school districts. The budget shall be delivered to the county clerks of the counties in which the intermediate school district is located. The county clerk receiving the budget shall deliver it to the tax allocation board in the same manner as local school district budgets are handled.

HISTORY: New 1976, p. 1683, Act 451, Imd. Eff. Jan. 13, 1977

380.1726 Special education budget; allocation of tax rates. [M.S.A. 15.41726]

Sec. 1726. (1) County tax allocation boards shall receive special education budgets from their respective county clerks, shall treat them as local school district budgets are treated, and shall allocate tax rates to intermediate school districts for the purposes set forth in sections 1722 to 1729, except in counties which have established separate tax limitation millage rates pursuant to sections 5a to 5m of Act No. 62 of the Public Acts of 1933, as amended, being sections 211.205a to 211.205m of the Michigan Compiled Laws.

(2) The allocations shall be handled in the same manner as other allocations for local school districts.

(3) The allocations shall not be made within the 15 mill limitation but shall be within the charter limitations of section 6 of article 9 of the state constitution of 1963. The allocations shall not exceed the limit authorized by the election at which these sections became effective.

HISTORY: New 1976, p. 1683, Act 451, Imd. Eff. Jan. 13, 1977

380.1727 Certification of tax levy; rate limitation; spreading amount on tax rolls; collection of taxes. [M.S.A. 15.41727]

Sec. 1727. (1) An intermediate school board shall certify the amount of taxes to be levied for collection to the municipal and township officials concerned. The certification shall be made at the same time and in the same manner as local school districts certify tax levies but the rate certified for levy shall not exceed the amount allocated in counties which have not established separate tax limitation rates.

(2) On receipt of the tax certificate from the intermediate school board, the municipal and township officials responsible for the levying and collection of taxes shall spread on the tax rolls a special education tax equal to the amount ordered spread, and shall collect the taxes in the same manner as other taxes are collected.

HISTORY: New 1976, p. 1683, Act 451, Imd. Eff. Jan. 13, 1977

380.1728 Payment of taxes collected; accounts and records. [M.S.A. 15.41728]

Sec. 1728. Taxes collected under section 1727 shall be paid to the county treasurers in the same manner as other county taxes are paid, and similar accounts and records shall be kept. The county treasurers shall pay the funds received under section 1727 to the treasurer of the intermediate school board.

HISTORY: New 1976, p. 1693, Act 451, Imd. Eff. Jan. 13, 1977.

380.1729 Expenditure of funds; rules; order for payment. [M.S.A. 15.41729]

Sec. 1729. (1) An intermediate school board operating under sections 1722 to 1729 shall expend funds received under section 1728 for special education purposes in accordance with rules promulgated by the state board.

(2) Special education funds held by the treasurer of the intermediate school board shall be paid on order of the intermediate school board.

HISTORY: New 1976, p. 1693, Act 451, Imd. Eff. Jan. 13, 1977.

380.1731 Borrowing money and issuing bonds; purposes; limitation; refunding bonds. [M.S.A. 15.41731]

Sec. 1731. (1) An intermediate school district may borrow money and issue bonds of the intermediate school district subject to Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Michigan Compiled Laws, to defray all or parts of the costs of purchasing, erecting, completing, remodeling, improving, furnishing, refurnishing, equipping, or reequipping buildings for special education facilities; acquiring, preparing, developing, or improving sites, or part thereof or addition thereto, for buildings and other special education facilities; refunding all or part of existing bonded indebtedness; or the accomplishment of a combination of the foregoing purposes.

(2) An intermediate school district shall not issue bonds for purposes of purchasing, erecting, completing, remodeling, improving, furnishing, refurnishing, equipping, or reequipping buildings for special education for an amount greater than 1.5% of the total assessed valuation of the intermediate school district nor shall the bonded indebtedness of an intermediate school district extend beyond a period of 30 years for money borrowed.

(3) Refunding bonds or the refunding part of a bond issue shall not be deemed to be within the 1.5% limitation but shall be deemed to be authorized in addition thereto.

HISTORY: New 1976, p. 1694, Act 451, Imd. Eff. Jan. 13, 1977.

380.1732 Borrowing money and issuing bonds; form of ballot. [M.S.A. 15.41732]

Sec. 1732. The ballot submitting the question of borrowing money for the purpose of issuing bonds under section 1731 shall be in substantially the following form:

"Shall ____
(legal name of the intermediate school district)
state of Michigan, borrow the sum of not to exceed $______________ and issue its bonds therefor, for the purpose of ______________________________?

Yes ( )
No ( )"

HISTORY: New 1976, p. 1694, Act 451, Imd. Eff. Jan. 13, 1977.

380.1741 Pupils carried in membership; state school aid; calculation of membership. [M.S.A. 15.41741]

Sec. 1741. An intermediate school board operating or contracting for the operation of special education programs or services may carry pupils in membership in the same manner as a local school district and shall be entitled to its proportionate share of state school aid available for these programs. Membership shall be calculated on the basis provided in rules promulgated by the state board.

HISTORY: New 1976, p. 1694, Act 451, Imd. Eff. Jan. 13, 1977.

380.1742 Employment of additional personnel; requirement; rights and benefits; persons covered by agreement. [M.S.A. 15.41742]

Sec. 1742. (1) When employing additional personnel to implement a special education program or service, the intermediate school board shall employ first an employee of a constituent district whose employment is discontinued because the constituent district is discontinuing a special education program or service for which the person was employed.

(2) Special education personnel employed under subsection (1) shall be entitled to all rights and benefits to which they would otherwise be entitled if they had been employed by the intermediate school board originally. The persons shall be entitled to all rights under Act No. 4 of the Public Acts of the Extra Session of 1937, as amended, being sections 38.71 to 38.191 of the Michigan Compiled Laws, to which they would have been entitled if employed originally by the intermediate school board, except that at the option of the controlling board, they may be subject to another probationary period of 1 year.

(3) This section shall not apply when the affected person is covered under an agreement which provides substantially the same benefits.

HISTORY: New 1976, p. 1694, Act 451, Imd. Eff. Jan. 13, 1977.

380.1743 Employment of additional personnel for programs and services previously provided by state agency; requirement; rights and benefits; probationary period. [M.S.A. 15.41743]

Sec. 1743. (1) An intermediate school board in providing special education programs and services that were previously provided by a state agency within the intermediate school district shall, before employing any additional personnel for purposes of implementing the special education program or service, first employ a person of a state agency whose employment is discontinued because a state agency is discontinuing a special education program or service for which the person was employed.

(2) Special education personnel employed pursuant to subsection (1) shall be entitled to all the rights and benefits to which they would otherwise be entitled had they been employed by the intermediate school district originally. The persons shall be entitled to all rights under Act No. 4 of the Public Acts of the Extra Session of 1937, as amended, to which they would have been entitled if employed originally by the intermediate school board, except that they may, at the option of the controlling board, be subject to another probationary period of 1 year.

HISTORY: New 1976, p. 1695, Act 451, Imd. Eff. Jan. 13, 1977.

PART 31

SPECIAL EDUCATION PROGRAMS AND SERVICES; LOCAL SCHOOL BOARDS

380.1751 Special education programs and services of local school district. [M.S.A. 15.41751]

Sec. 1751. (1) The board of a local school district shall provide special education programs and services designed to develop the maximum potential of each handicapped person in its district on record under section 1711 for whom an appropriate educational or training program can be provided in accordance with the intermediate school district special education plan, in either of the following ways or a combination thereof:

(a) Operate the special education program or service.

(b) Contract with its intermediate school board, another intermediate school board, another local school district board, an adjacent school district board in a bordering state, the Michigan school for the blind, the Michigan school for the deaf, the department of mental health, the department of social services, or any combination thereof, for delivery of the special education programs or services, or with an agency approved by the state board for delivery of an ancillary professional special education service. The intermediate school district of which the local school district is constituent shall be a party to each contract even if the intermediate school district does not participate in the delivery of the program or services.

(2) A local school district contract for the provision of a special education program or service shall provide specifically for:

(a) Special education buildings, equipment, and personnel necessary for the operation of the subject program or service.

(b) Transportation or room and board, or both, for persons participating in the programs or services as required under section 1756 and 1757.

(c) The contribution to be made by the sending local school district if the program or service is to be operated by another party to the contract. The contribution shall be in accordance with rules promulgated by the state board.

(d) Other matters which the parties deem appropriate.

(3) Each program or service operated or contracted for by a local school district shall be in accordance with the intermediate school district's plan established pursuant to section 1711.

(4) A local school district may provide additional special education programs and services not included in, or required by, the intermediate school district plan.

(5) This section shall be construed to allow operation of programs by departments of state government without local school district contribution.

HISTORY: New 1976, p. 1695, Act 451, Imd. Eff. Jan. 13, 1977.

380.1756 Transportation. [M.S.A. 15.41756]

Sec. 1756. The board of a local school district shall provide by contract or agreement for the transportation of a handicapped person who would otherwise be unable to participate in an appropriate special education program or service operated or contracted for by the local school district under section 1751, except for a handicapped person in residence at facilities operated by the department of mental health or the department of social services. The board of a school district may provide for weekend transportation of a handicapped person in residence at the Michigan school for the blind and the Michigan school for the deaf.

HISTORY: New 1976, p. 1696, Act 451, Imd. Eff. Jan. 13, 1977.

380.1757 Room and board generally. [M.S.A. 15.41757]

Sec. 1757. The board of a local school district shall provide by contract or otherwise for the room and board of a handicapped person who would otherwise be unable to participate in an appropriate special education program or service operated or contracted for by the local school district board pursuant to section 1751, except those operated by the Michigan school for the blind, the Michigan school for the deaf, the department of mental health, or the department of social services.

HISTORY: New 1976, p. 1696, Act 451, Imd. Eff. Jan. 13, 1977.

380.1761 Room and board; reimbursement. [M.S.A. 15.41761]

Sec. 1761. The board of a local school district shall not solicit nor seek reimbursement from a handicapped person or person otherwise liable for the care of the handicapped person for cost of a special education program or service attributable to the expense for room and board. The board of a local school district shall have the right to reimbursement for room and board in an amount which may be paid reasonably by the person in accordance with rules promulgated by the state board.

HISTORY: New 1976, p. 1696, Act 451, Imd. Eff. Jan. 13, 1977.

380.1766 Employment of additional personnel; requirement; rights and benefits; persons covered by agreement. [M.S.A. 15.41766]

Sec. 1766. (1) When employing additional personnel to implement special education programs and services, the board of a constituent district shall employ first an employee of the intermediate school district in which it is located whose employment is discontinued because the intermediate school district or state agency located within the district is discontinuing the special education program or service for which the person was employed.

(2) Special education personnel employed under subsection (1) shall be entitled to all rights and benefits to which they would otherwise be entitled had they been employed by the constituent school district originally. The persons shall be entitled to all rights under Act No. 4 of the Public Acts of the Extra Session of 1937, as amended, being sections 38.71 to 38.191 of the Michigan Compiled Laws, to which they would have been entitled if employed originally by the constituent district, except that at the option of the controlling board, they may be subject to another probationary period of 1 year.

(3) This section shall not apply when the affected person is covered under an agreement which provides substantially the same benefits.

HISTORY: New 1976, p. 1696, Act 451, Imd. Eff. Jan. 13, 1977.

ARTICLE 4

PART 32

VIOLATIONS

380.1801 Neglecting or refusing to make reports or certify taxes; liability; action at law. [M.S.A. 15.41801]

Sec. 1801. (1) A township clerk who neglects or refuses to make out and transmit the annual report containing the reports of the several school districts of the township, or other report which the law requires, within the time limited therefor shall be liable to pay the full amount lost by the township or any district or districts by the neglect or refusal, with interest thereon, to be recovered in an action at law.

(2) A township or city clerk who neglects or refuses to certify to the proper tax assessing officer taxes that have been reported as required by this act, and a

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DEPARTMENT OF EDUCATION
STATE BOARD OF EDUCATION
SPECIAL EDUCATION PROGRAMS AND SERVICES

Filed with the Secretary of State on July 29, 1980
These rules take effect 15 days after filing with the Secretary of State

(By authority conferred on the state board of education by sections 1701 and 1703 of Act No. 451 of the Public Acts of 1976, as amended, being §§380.1701 and 380.1703 of the Michigan Compiled Laws)

R 340.1701, R 340.1702 to R 340.1711, R 340.1713, R 340.1714, R 340.1721, R 340.1722, R 340.1723, R 340.1724, R 340.1725, R 340.1732 to R 340.1734, R 340.1736 to R 340.1752, R 340.1771 to R 340.1788, R 340.1790 to R 340.1794, R 340.1801 to R 340.1803, R 340.1805, R 340.1806, R 340.1808, R 340.1809, R 340.1831 to R 340.1837, R 340.1851, and R 340.1852 of the Michigan Administrative Code, appearing on pages 6727 to 6730, 6732, 6734 to 6737, 6739 to 6744, 6746, and 6747 of the 1973 Annual Supplement to the Code and pages 209 to 225 of the 1977 Annual Supplement to the Code, are amended, and R 340.1701a, R 340.1701b, R 340.1721a to R 340.1721e, R 340.1722a to R 340.1722f, R 340.1723a to R 340.1723c, R 340.1724a, R 340.1724b, R 340.1725a to R 340.1725d, R 340.1753 to R 340.1757, R 340.1795 to R 340.1798, R 340.1810 to R 340.1812, R 340.1838, R 340.1853, R 340.1854, and R 340.1861 to R 340.1873 are added, to read as hereinafter set forth.

R 340.1712, R 340.1731, R 340.1735, and R 340.1804 of the Michigan Administrative Code, appearing on page 6734 of the 1973 Annual Supplement to the Code, and pages 210, 213, 214, and 222 of the 1977 Annual Supplement to the Code, are rescinded.

PART 1. GENERAL PROVISIONS

R 340.1701 Definitions; A to E.

Rule 1. As used in these rules:

(a) "Adaptive behavior" means an individual's ability to perform the social roles appropriate for a person of his or her age and gender in a manner which meets the expectations of home culture, school, neighborhood, and other relevant groups in which he or she participates.

(b) "Agency" means a public or private entity or organization, including, but not limited to, the local education agency, intermediate school district, the department, and any other political subdivision of the state which is responsible for providing education or services to handicapped persons.

(c) "Ancillary and other related services" means services specially designed to meet the unique needs of a handicapped person to age 25, including, but not limited to, all of the following:

- (i) Audiological, medical, psychiatric, psychological, speech and language, or educational evaluation.
- (ii) Occupational, physical, recreational, music, work, or other therapy.
- (iii) Mobility and orientation services, and special education services provided by other nonteaching personnel.
- (iv) Transportation.
- (v) Services designed to assist the regular education student, including school psychological and social work services.
- (vi) Instruction provided by special education teachers designed to assist regular education students who are homebound, hospitalized, or placed in juvenile detention facilities.

(d) "Annual goals" means a set of general statements which represent expected achievement over a year's time for handicapped persons enrolled in special education programs and services.

(e) "Approved program" means a program that is described in the intermediate school district plan and is being operated in compliance with state and federal rules and regulations governing the provision of special education to eligible handicapped persons.

(f) "Change in educational status" means an assignment or reassignment, of a handicapped person to regular education, special education programs and services, or from one type of special education program or service to another, or termination of special education programs or services by reassignment, graduation, or expulsion. Any change in grade levels within an educational program level, such as preprimary, elementary, junior high, or senior high, shall not constitute a change in educational status, but a change from one educational program level to another constitutes a change in educational status.

(g) "Complaint" means a written claim that there has been a specific violation, misinterpretation, or misapplication of any provision of these rules; Act No. 451 of the Public Acts of 1976, as amended, being §380.1 et seq. of the Michigan Compiled Laws, as it pertains to special education programs and services; the education for all handicapped children act of 1975, 20 U.S.C. §1401 et seq., and the regulations implementing the act; the state board of education's special education plan; or an intermediate school district's special education plan.

(h) "Comprehensive evaluation" means an evaluation conducted for the purpose of determining eligibility for special education and related services and for determining the current level of educational performance. The multidisciplinary team, members of the team, the individualized educational planning committee, or a hearing officer shall determine the comprehensiveness of an evaluation based on individual needs.

(i) "Consent" means an agreement in writing to carry out an activity after being fully informed in one's native language of all information relevant to the activity. Consent is voluntary and may be revoked in writing at any time.

(j) "Department" means the state department of education.

(k) "Destruction of records" means either the physical destruction of information or the removal of personal identifiers from information so that the information is no longer personally identifiable.

(l) "Education records" means those records that are directly related to a student and are maintained by an educational agency or institution or by a party acting for the agency or institution. The term does not include any of the following:

(i) Records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker thereof and which are not accessible or revealed to any other individual except a substitute. For the purpose of this definition, a "substitute" means an individual who performs on a temporary basis the duties of the individual who made the record, and does not refer to an individual who permanently succeeds the maker of the record in his or her position.

(ii) Records of a law enforcement unit of an educational agency or institution which meet all of the following conditions:

(A) The records are maintained apart from the records that are directly related to a student and are maintained by an educational agency or institution or by a party acting for the agency or institution.

(B) The records are maintained solely for law enforcement purposes.

(C) The records are not disclosed to individuals other than law enforcement officials of the same jurisdiction and education records maintained by the educational agency or institution are not disclosed to the personnel of the law enforcement unit.

(iii) Records relating to an individual who is employed by an educational agency or institution which meet all of the following conditions:

(A) The records are made and maintained in the normal course of business.

(B) The records relate exclusively to the individual in that individual's capacity as an employee.

(C) The records are not available for use for any other purpose. This paragraph does not apply to records relating to an individual in attendance at the agency or institution who is employed as a result of his or her status as a student.

(iv) Records relating to an eligible student which meet all of the following conditions:

(A) The records are created or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional or paraprofessional capacity, or assisting in that capacity.

(B) The records are created, maintained, or used only in connection with the provision of treatment to the student.

(C) The records are not disclosed to anyone other than individuals providing the treatment. However, the records may be personally reviewed by a physician or other appropriate professional of the student's choice. For the purpose of this definition, "treatment" does not include remedial educational activities or activities that are part of the program of instruction at the educational agency or institution.

(v) Records of an educational agency or institution that contain only information relating to a person after that person was no longer a student at the educational agency or institution. An example would be information collected by an educational agency or institution pertaining to the accomplishments of its alumni.

R 340.1701a Definitions; I to P.

Rule 1a. As used in these rules:

(a) "Independent educational evaluation" means an evaluation conducted by a qualified examiner or examiners who are not employed by the public agency responsible for the education of the student.

(b) "Individualized educational planning committee" means persons appointed and invited by the superintendent to determine a person's eligibility for special education programs and services and, if eligible and in need of special education programs and services, to develop an individualized education program.

(c) "Individualized education program" means a program developed by an individualized educational planning committee which shall be reviewed annually. The components of the program are identified in R 340.1721e(3).

(d) "Instructional services" means instructional services specially designed to meet the unique needs of a handicapped person up to age 25. These may be provided by any of the following:

(i) A preprimary teacher as defined in R 340.1795.

(ii) A teacher consultant as defined in R 340.1790.

(iii) A teacher of the speech and language impaired as defined in R 340.1796.

(e) "Multidisciplinary evaluation team" means a minimum of 2 persons who are responsible for evaluating students suspected of being handicapped or handicapped persons being reevaluated pursuant to R 340.1722d. The team shall include at least 1 special education-approved teacher or other specialist with knowledge in the area of the suspected disability.

(f) "Native language", when referring to a person of limited English speaking ability, means the language or mode of communication normally used by that person.

(g) "Normal course of study" means a regular education curriculum leading to a high school diploma, or a special education curriculum approved in the intermediate plan leading to a high school diploma. A special education curriculum shall include physical education, personal adjustment, and prevocational and vocational training.

(h) "Parent" means the mother, father, or legally designated guardian of the handicapped person. "Parent" also means the affected handicapped person when the person reaches 18 years of age, if a legal guardian has not been appointed by appropriate court proceedings.

(i) "Parent advisory committee" means a committee of parents of handicapped persons of a particular intermediate school district appointed by the board of that district pursuant to R 340.1838.

(j) "Performance objectives" means a set of specific behavioral statements representing measurable steps toward the achievement of the short-term instructional objectives and annual goals written in the individualized education program.

(k) "Personal adjustment education" means instruction designed to assist the handicapped person to develop personal and social skills needed for adult independent living, including, but not limited to, activities of daily living, homemaking, mobility, personal health and appearance, recreation, and use of prosthetic devices and sensory aids.

(l) "Personally identifiable" means that information which includes any of the following data:

  (i) The legal name of the person, the person's parent, or other family member.

  (ii) The address of the person.

  (iii) A personal identifier, such as the person's social security number or student number.

  (iv) A list of personal characteristics or other information which makes it possible to identify the person with reasonable certainty.

(m) "Physical education" means the development of physical and motor fitness, fundamental motor skills and patterns, and skills in aquatics, dance, and individual and group games and sports, both intramural and lifetime. The term includes special physical education, adaptive physical education, movement education, and motor development.

(n) "Prevocational education" means instruction needed as a prerequisite to vocational education, such as reading and writing, knowledge of commonly used tools, utensils and processes, familiarity with the broad range of occupations for which special skills are required, common employment procedures and requirements, and knowledge of the nature and extent of vocational limitations caused by a handicap and the use of prosthetic devices, or both.

(o) "Psychologist" means an approved Michigan school psychologist or a Michigan fully licensed psychologist.

(p) "Public expense" means that the public agency either pays for the full cost of the evaluation, program, or services, including transportation and room or board, or else insures that such is provided at no cost to the parent.

R 340.1701b Definitions; R to Y.

Rule 1b. As used in these rules:

(a) "Regular education" means education other than special education program and services.

(b) "Services" means instructional, ancillary, and other related services as defined in these rules.

(c) "Short-term instructional objectives" means objectives written in measurable terms which relate to the annual goals and represent expected achievement over several weeks or months but not more than 1 year.

(d) "Special education" means specially designed instruction, at no cost to the parents, to meet the unique needs of a handicapped person, including classroom instruction, instruction in physical education, home instruction, and instruction in hospitals and institutions and designed to develop the maximum potential of a handicapped person.

(e) "Special education advisory committee" means a committee appointed by the state board of education to advise the state board of education on matters related to the delivery of special education programs and services.

(f) "Special education classroom" means a classroom that is under the direction of an approved special education teacher and in which a person receives specially designed instruction.

(g) "Specialized transportation" means transportation provided in an approved school vehicle in a regular seat, wheelchair, or an approved baby seat. This specifically excludes students who need ambulance service, a medical attendant, or other care outside the responsibility of the schools.

(h) "Superintendent" means the chief executive officer of the public agency or his or her designee.

(i) "Vocational evaluation services" means evaluation of educational and vocational needs of handicapped persons conducted in facilities licensed under the fair labor standards act of 1938, as amended, 29 U.S.C. §201 et seq. The purpose of the evaluation service shall be to identify the handicapped person's functional vocational level for vocational training or placement.

(j) "Vocational training" means vocational education as defined in section 7 of Act No. 451 of the Public Acts of 1976, as amended, being §380.7 of the Michigan Compiled Laws.

(k) "Work activity center" means a program designed exclusively to provide therapeutic activities for handicapped persons whose handicap is so severe that their productive capacity is inconsequential. A work activity center may be operated in conjunction with a sheltered workshop licensed under the fair labor standards acts of 1938, as amended.

(l) "Work study" means on-the-job training, related counseling, and follow-up services.

(m) "Youth placed in a juvenile detention facility" means an individual who is placed by the court in a detention facility for juvenile delinquents and who is not attending a regular school program due to court order.

R 340.1702 "Handicapped person" defined.

Rule 2. "Handicapped person" means a person determined by an individualized educational planning committee or a hearing officer to have a characteristic or set of characteristics pursuant to R 340.1703 to R 340.1714 that necessitate special education and related services. Determination of an impairment shall not be based solely on behaviors relating to environmental, cultural, or economic differences.

R 340.1703 Determination of severely mentally impaired.

Rule 3. (1) The severely mentally impaired shall be determined through manifestation of all of the following behavioral characteristics:

(a) Development at a rate approximately 4½ or more standard deviations below the mean as determined through intellectual assessment.

(b) Lack of development primarily in the cognitive domain.

(c) Impairment of adaptive behavior.

(2) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team which shall include a psychologist.

(3) A determination of impairment shall not be based solely on behaviors relating to environmental, cultural, or economic differences.

R 340.1704 Determination of trainable mentally impaired.

Rule 4. (1) The trainable mentally impaired shall be determined through manifestation of all of the following behavioral characteristics:

(a) Development at a rate approximately 3 to 4½ standard deviations below the mean as determined through intellectual assessment.

(b) Lack of development primarily in the cognitive domain.

(c) Impairment of adaptive behavior.

(2) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team which shall include a psychologist.

(3) A determination of impairment shall not be based solely on behaviors relating to environmental, cultural, or economic differences.

R 340.1705 Determination of educable mentally impaired.

Rule 5. (1) The educable mentally impaired shall be determined through the manifestation of all of the following behavioral characteristics:

(a) Development at a rate approximately 2 to 3 standard deviations below the mean as determined through intellectual assessment.

(b) Scores approximately within the lowest 6 percentiles on a standardized test in reading and arithmetic.

(c) Lack of development primarily in the cognitive domain.

(d) Impairment of adaptive behavior.

(2) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team which shall include a psychologist.

(3) A determination of impairment shall not be based solely on behaviors relating to environmental, cultural, or economic differences.

R 340.1706 Determination of emotionally impaired.

Rule 6. (1) The emotionally impaired shall be determined through manifestation of behavioral problems primarily in the affective domain, over an extended period of time, which adversely affect the person's education to the extent that the person cannot profit from regular learning experiences without special education support. The problems result in behaviors manifested by 1 or more of the following characteristics:

(a) Inability to build or maintain satisfactory interpersonal relationships within the school environment.

(b) Inappropriate types of behavior or feelings under normal circumstances.

(c) General pervasive mood of unhappiness or depression.

(d) Tendency to develop physical symptoms or fears associated with personal or school problems.

(2) The term "emotionally impaired" also includes persons who, in addition to the above characteristics, exhibit maladaptive behaviors related to schizophrenia, autism, or similar disorders. The term "emotionally impaired" does not include persons who are socially maladjusted unless it is determined that such persons are emotionally impaired.

(3) The emotionally impaired shall not include persons whose behaviors are primarily the result of intellectual, sensory, or health factors.

(4) A determination of impairment shall be based on data provided by a multidisciplinary team which shall include a comprehensive evaluation by both of the following:

(a) A psychologist or psychiatrist.

(b) A school social worker.

(5) A determination of impairment shall not be based solely on behaviors relating to environmental, cultural, or economic differences.

R 340.1707 Determination of hearing impaired.

Rule 7. (1) The hearing impaired shall be determined through manifestation of a hearing impairment which adversely affects educational performance.

(2) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team which shall include an otolaryngologist and an audiologist.

(3) A determination of impairment shall not be based solely on behaviors relating to environmental, cultural, or economic differences.

R 340.1708 Determination of visually impaired.

Rule 8. (1) The visually impaired shall be determined through the manifestation of both of the following:

(a) A visual impairment that interferes with development, or adversely affects educational performance.

(b) One or both of the following:

(i) A central visual acuity of 20/70 or less in the better eye after routine refractive correction.

(ii) A peripheral field of vision restricted to not more than 20 degrees.

(2) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team which shall include an ophthalamologist or optometrist.

(3) A determination of impairment shall not be based solely on behaviors relating to environmental, cultural, or economic differences.

R 340.1709 Determination of physically and otherwise health impaired.

Rule 9. (1) The physically and otherwise health impaired shall be determined through the manifestation of a physical or other health impairment which adversely affects educational performance and which may require physical adaptations within the school environment.

(2) Determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team which shall include an orthopedic surgeon, internist, neurologist, pediatrician, or osteopathic internist.

(3) A determination of impairment shall not be based solely on behaviors relating to environmental, cultural, or economic differences.

R 340.1710 Determination of speech and language impaired.

Rule 10. (1) The speech and language impaired shall be determined through the manifestation of 1 or more of the following communication impairments which adversely affects educational performance:

(a) Articulation impairment, including omissions, substitutions, or distortions of sound, persisting beyond the age at which maturation alone might be expected to correct the deviation.

(b) Voice impairment, including inappropriate pitch, loudness, or voice quality.

(c) Fluency impairment, including abnormal rate of speaking, speech interruptions; and repetition of sounds, words, phrases, or sentences, which interferes with effective communication.

(d) One or more of the following language impairments: phonological, morphological, syntactic, semantic, or pragmatic use of aural/oral language as evidenced by both of the following:

(i) A spontaneous language sample demonstrating inadequate language functioning.

(ii) Test results, on not less than 2 standardized assessment instruments or 2 subtests designed to determine language functioning, which indicate inappropriate language functioning for the child's age.

(2) A handicapped person who has a severe speech and language impairment but whose primary disability is other than speech and language shall be eligible for speech and language services pursuant to R 340.1745(a).

(3) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary team which shall include a teacher of the speech and language impaired.

(4) A determination of impairment shall not be based solely on behaviors relating to environmental, cultural, or economic differences.

R 340.1711 "Preprimary impaired" defined; determination; effective date.

Rule 11. (1) "Preprimary impaired" means a child up to 5 years of age whose primary impairment cannot be determined through existing criteria within R 340.1703 to R 340.1710 or R 340.1713 to R 340.1714 and who manifests 1 or more of the following characteristics:

(a) Impairment in 1 or more areas of development equal to or greater than 1/2 of the expected development for chronological age as measured by more than 1 developmental scale and which cannot be resolved by medical or nutritional intervention.

(b) Lack of appropriate response to visual or auditory stimuli.

(c) Inappropriate behavior or affective responses which interfere with normal developmental functioning.

(2) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team which shall include a psychologist.

(3) A determination of impairment shall not be based solely on behaviors relating to environmental, cultural, or economic differences.

(4) This rule shall take effect on September 1, 1981.

R 340.1713 "Specific learning disability" defined; determination.

Rule 13. (1) "Specific learning disability" means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations. The term includes such conditions as perceptual handicaps, brain injury, minimal brain disfunction, dyslexia, and developmental aphasia. The term does not include children who have learning problems which are primarily the result of visual, hearing, or motor handicaps, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

(2) The individualized educational planning committee may determine that a child has a specific learning disability if the child does not achieve commensurate with his or her age and ability levels in 1 or more of the areas listed in this subrule, when provided with learning experiences appropriate for the child's age and ability levels, and if the multidisciplinary evaluation team finds that a child has a severe discrepancy between achievement and intellectual ability in 1 or more of the following areas:

(a) Oral expression.
(b) Listening comprehension.
(c) Written expression.
(d) Basic reading skill.
(e) Reading comprehension.
(f) Mathematics calculation.
(g) Mathematics reasoning.

(3) The individualized educational planning committee may not identify a child as having a specific learning disability if the severe discrepancy between ability and achievement is primarily the result of any of the following:

(a) A visual, hearing, or motor handicap.
(b) Mental retardation.
(c) Emotional disturbance.
(d) Environmental, cultural, or economic disadvantage.

(4) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team which shall include at least both of the following:

(a) The child's regular teacher or, if the child does not have a regular teacher, a regular classroom teacher qualified to teach a child of his or her age or, for a child of less than school age, an individual qualified by the state educational agency to teach a child of his or her age.

(b) At least 1 person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, a teacher of the speech and language impaired, or a teacher consultant.

R 340.1714 Determination of severely multiply impaired.

Rule 14. (1) The severely multiply impaired shall be determined through the manifestation of all of the following behavioral characteristics:

(a) Multiple handicaps in the physical and cognitive domains.

(b) Inability to function within other special education programs which deal with a single handicap.

(c) Development at less than the expected rate for the age group in the cognitive, affective or psychomotor domains.

(2) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team which shall include a psychologist, a neurologist, and an orthopedic surgeon, an ophthalmologist; or an otolaryngologist and an audiologist, depending upon the handicaps defined in this part.

(3) A determination of impairment shall not be based solely on behaviors relating to environmental, cultural, or economic differences.

PART 2. EVALUATION, ELIGIBILITY, STUDENT ASSIGNMENT, AND DUE PROCESS PROCEDURES

R 340.1721 Parental consent for initial evaluation; contents of notice; refusal to consent or respond.

Rule 21. (1) Within 10 calendar days of receipt of a referral of a person suspected of being handicapped, and prior to any formal evaluation designed to determine eligibility for special education programs and services, the public agency shall notify the parent pursuant to R 340.1723a and R 340.1723b and shall request written consent to evaluate. This written notice shall contain all of the following:

(a) The reason or reasons an evaluation is sought and the nature of the evaluation.

(b) A full explanation of all the procedural safeguards available to the parent under part 2 of these rules.

(c) A description of the types of special education programs and services currently available within the intermediate school district.

(d) A list of organizations, including their addresses and telephone numbers, available to help parents of handicapped persons understand the special education process.

(e) A statement of the parent's right to inspect and review all education records with respect to the identification, evaluation, program, educational placement, and the provision of a free appropriate public education to the suspected handicapped student pursuant to the provisions of R 340.1861 to R 340.1866.

(f) A statement of the parent's right to be accompanied to the individualized educational planning committee meeting by any person or persons the parent desires.

(g) A statement of the parent's right to obtain an independent evaluation if he or she disagrees with the evaluation conducted by the public agency.

(h) A statement of the opportunity for the parent to provide the multidisciplinary evaluation team with information about the suspected handicapped person and the opportunity to present information at the individualized educational planning committee meeting.

(2) If the parent refuses consent to evaluate or does not respond within 7 calendar days, then the public agency has the right to request a hearing in this matter pursuant to R 340.1723a(3).

R 340.1721a Evaluation procedure.

Rule 21a. (1) Each student suspected of being handicapped shall be evaluated by a multidisciplinary evaluation team as defined in R 340.1701a(e). Members of the team may include other qualified personnel in areas related to the suspected disability, including, where appropriate, the following: health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor ability.

(2) The multidisciplinary team shall complete a diagnostic evaluation, including a recommendation of eligibility, and shall prepare a written report to be presented to the individualized educational planning committee by the appointed multidisciplinary team member. The report shall include, but is not limited to, information needed to determine eligibility and educational data which identifies the person's current level of educational performance. Information presented to the individualized educational planning committee shall be drawn from a variety of sources, including parent input, aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, adaptive behavior, and other pertinent information. No single procedure shall be used as the sole criterion for determining an appropriate educational program for a person.

(3) When evaluating a person suspected of being handicapped, the public agency shall assure that tests and other evaluation materials used by members of the multidisciplinary team comply with all of the following:

(a) Are administered by trained personnel in conformance with the instructions provided by their producer.

(b) Are validated for the specific purpose for which they are used.

(c) Are designed to assess specific areas of educational need and not merely to provide a general intelligence quotient.

(d) Are reflective of the person's aptitude or achievement or whatever other factors the test purports to measure rather than reflecting the person's impaired sensory, manual, or speaking skills, unless this is what the test is intended to measure.

(e) Are selected and administered so as not to be socially or culturally discriminatory.

(4) When evaluating a person suspected of having a specific learning disability, at least one team member other than the child's regular teacher shall observe the child's academic performance in the regular classroom setting. In the case of a child of less than school age or out of school, a team member shall observe the child in an environment appropriate for a child of that age.

(5) The multidisciplinary evaluation team evaluating a person suspected of having a specific learning disability shall complete a written report which shall include, at a minimum, all of the following:

(a) A recommendation of eligibility and the basis for making this recommendation.

(b) The relevant behavior noted during the observation of the child and the relationship of that behavior to the child's academic functioning.

(c) The educationally relevant medical findings, if any.

(d) Whether there is a severe discrepancy between achievement and ability which is not correctable without special education and related services.

(e) The determination of the team concerning the effects of environmental, cultural, or economic disadvantage.

(f) Each team member shall certify in writing whether the report reflects his or her conclusion. If it does not reflect his or her conclusion, the team member shall submit a separate statement presenting his or her conclusions.

(6) When evaluating a person suspected of being emotionally impaired, the multidisciplinary team report shall include documentation of all of the following:

(a) The person's performance in the educational setting and in other settings, such as adaptive behavior within the broader community.

(b) The systematic observation of the behaviors of primary concern which interfere with educational and social needs.

(c) The intervention strategies used to improve these behaviors, and the length of time these strategies were utilized.

(d) Relevant medical information, if any.

(7) For visually impaired students who have a visual acuity of 20/200 or less after routine refractive correction, or who have a peripheral field of vision restricted to not more than 20 degrees, an evaluation by an orientation and mobility specialist shall be conducted. The orientation and mobility specialist shall also include in the report a set of recommended procedures to be used by a mobility specialist or a teacher of the visually impaired in conducting orientation and mobility training activities.

(8) Tests and other evaluation materials shall be provided and shall be administered in the student's native language, unless it is clearly unnecessary to do so. When evaluation in English is not feasible, the public agency shall do all of the following:

(a) Give first consideration to evaluative personnel who are competent in English and in the native language and culture of the student.

(b) When needing an interpreter, contract with a bilingual/bicultural psychologist trainee, an intern currently enrolled in a professional training program, or a person who is competent in English and in the native language and culture of the student.

(c) Provide interpreters for the deaf where appropriate.

R 340.1721b Individualized educational planning committee participants.

Rule 21b. (1) The superintendent shall appoint participants to an individualized educational planning committee and shall invite the parents to be participants.

(2) Participants in an individualized educational planning committee meeting shall, at a minimum, include both of the following:

(a) A representative of the public agency, other than the child's teacher, who is qualified to provide, or supervise the provision of, special education.

(b) The student's teacher or a teacher appropriate for the student's age and ability if the student is not previously enrolled by the public agency. If the child is enrolled in regular education, at least 1 of the participants shall be a regular full-time teacher to whom the child is assigned.

(3) At the initial individualized educational planning committee meeting and at the 3-year comprehensive evaluation review meeting, a member of the multidisciplinary team is required to be a participant and present the written team report. At subsequent individualized educational planning committee meetings, members of this team may participate at the request of the parent or public agency. However, 1 of the meeting participants shall present the handicapped person's current level of educational performance.

(4) In addition to the parent, other persons, at the discretion of the parent or public agency, may be invited to attend, including the handicapped person, if appropriate.

(5) In each case, the superintendent shall give consideration to the appropriateness of appointing professional ancillary and related personnel.

R 340.1721c Scheduling individualized educational planning committee meeting; requesting parent participation.

Rule 21c. (1) The district of residence shall schedule the initial individualized educational planning committee meeting at a mutually agreed on time and place.

(2) The time from referral or from receipt of parental consent to an initial evaluation to the completion of the individualized educational program or the determination of ineligibility shall not exceed 30 school days. This timeline may be extended if agreed to by the parent and public agency.

(3) The parent shall be contacted by professional personnel from the school district to explain the purpose of the meeting and the roles and responsibilities of each participant.

(4) If neither parent can attend, the public agency shall use other methods to insure parent participation, including individual or conference telephone calls. A meeting may be conducted without a parent in attendance if the public agency is unable to convince the parents to attend. In this case, the public agency shall have a record of its attempts to arrange a mutually agreed on time and place, including all of the following:

(a) Detailed records of telephone calls made or attempted and the results of these calls.

(b) Copies of correspondence sent to the parents and any responses received.

(c) Detailed records of visits made to the parent's home or place of employment and the results of those visits.

(5) The public agency shall take whatever action is necessary to insure that the parent understands the proceedings at the meeting, including arranging for an interpreter for parents who are deaf or whose native language is other than English.

R 340.1721d Responsibilities of the individualized educational planning committee.

Rule 21d. (1) Persons identified as being handicapped shall receive special education programs and services pursuant to the individualized educational planning committee program or pursuant to the final decision on an appeal.

(2) The individualized educational planning committee shall do all of the following:

(a) Determine the eligibility of persons suspected of being handicapped or review eligibility after the 3-year evaluation. A person is eligible, as a statutory right, for special education programs and services if the person is identified as having 1 or more of the impairments defined in part 1 of these rules, is not more than 25 years of age as of September 1 of the school year of enrollment, has not completed a normal course of study, and has not graduated from high school. A person reaching the age of 26 years after September 1 is entitled to continue in a special education program or service until the end of that school year.

(b) Consider the need for a change in the educational status for eligible handicapped persons.

(c) Develop, review, or revise each handicapped person's individualized education program annually.

(3) The individualized educational planning committee shall submit its report to the superintendent immediately upon completing the individualized educational program. The individualized educational planning committee may, after considering the least restrictive environment, recommend where the program and services may most appropriately be provided and may identify for the superintendent the assignment options that were considered and the reasons why the recommended option was chosen. The report of the committee shall not be restricted to the programs and the services available. In addition, the individualized education program shall not determine how the programs and services shall be delivered, except where such is an integral part of the placement or service itself.

R 340.1721e Individualized educational planning committee meeting; determination of eligibility for special education programs and services; individualized education program.

Rule 21e. (1) The superintendent shall convene an individualized educational planning committee meeting.

(2) The participants shall determine if the student is eligible for special education programs or services, or both. Eligibility shall be determined by the committee after receipt and review of the multidisciplinary team report and recommendation, and after consideration of any additional information presented by the participants. If a student is determined to be handicapped, the committee shall write an individualized education program or may reconvene for this purpose. In either event, the time line specified in R 340.1721c(2) shall apply.

(3) An individualized education program shall be based on all diagnostic, medical, and other evaluative information requested by the committee or provided by the parent or handicapped person and shall include all of the following information in writing:

(a) A statement of the person's present level of educational performance.

(b) A statement of annual goals, including short-term instructional objectives.

(c) The projected dates for initiation of services and the anticipated duration of the services.

(d) Appropriate objective criteria and evaluation procedures and schedules for determining whether the instructional objectives are being achieved.

(e) A statement of the specific special education and related services to be provided to the person, giving consideration to the accessibility of physical facilities; transportation, including the need, if any, for aides or restraints; and room and board.

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(f) The extend to which the person is able to participate in regular education programs.

(4) Any participant in the committee's deliberations who disagrees, in whole or in part, with the committee's determination may indicate the reasons therefore on the committee's individualized education program report or may submit a written statement to be attached to the report.

R 340.1722 Assignment to special education programs and services.

Rule 22. (1) The superintendent of the operating school district is responsible for assigning a handicapped person to the facility where the programs and services, as described by the individualized education program or as directed by the hearing officer, are to be provided and shall adhere to the timelines outlined in R 340.1722a.

(2) In assigning the student, the superintendent shall assure all of the following:

(a) That to the maximum extent appropriate, the handicapped person, including a person assigned to a public or private institution or other care facility, is educated with persons who are not handicapped.

(b) That assignment to special classes, separate schools, or the removal of the handicapped person from the regular education environment occurs only when the nature and severity of the handicap is such that education in a regular class with use of supplementary aids and services cannot be achieved.

(c) That handicapped persons whose disability is such that they require assignment in special classes or facilities shall be assigned to programs or services as close as possible to their home.

(d) That in making the assignment, consideration shall be given to the accessibility of physical facilities, socially accepting environments, and to any potential harmful effects to the student or the quality of services which the student needs.

(3) The superintendent shall assure that each qualified handicapped person shall be given the opportunity to participate with nonhandicapped persons in nonacademic and extracurricular activities and services. Nonacademic and extracurricular activities and services may include, but are not limited to, the following:

(a) Meals, recess periods, counseling services, athletics, transportation, health services, recreational activities, and special interest groups or clubs sponsored by the public agency.

(b) Referrals to agencies that provide assistance to handicapped persons.

(c) Referrals to employment agencies.

(d) Referrals for employment within the local educational agency.

(e) Assistance in making outside employment available.

(f) Referrals to other agencies for services based on need.

If a handicapped person is assigned to a facility that houses nonhandicapped persons, the involvment of the handicapped person in the above activities and services shall be to the maximum extent appropriate to the handicapped person's needs.

(4) The superintendent shall appoint a staff person to be responsible for the implementation of the individualized education program. This person shall be either the principal of the building offering the handicapped person's primary educational program or other staff person who is generally accessible to the staff and who will be working with the handicapped person.

(5) The superintendent of the operating district shall give the parent a copy of the individualized education program, and each participant on the committee and all administrative and professional staff who will be directly involved in implementing the program shall have access to a copy of the individualized education program.

R 340.1722a Implementation of the individualized education program when the district of residence is the operating district.

Rule 22a. (1) The superintendent, upon receipt of the individualized educational planning committee's report, shall have 7 calendar days to either appeal the eligibility decision or the determination of special education programs and services as specified in the individualized education program, or both, or to provide to the parent written notification of the agency's intent to implement special education programs and services pursuant to R 340.1723a and R 340.1723b. This notice shall identify where the program and services are to be provided and when the individualized program shall begin.

(2) The parent, upon receipt of notification from the superintendent, shall have 7 calendar days to appeal the individualized educational planning committee's eligibility decision, the individualized education program, or the assignment decision of the superintendent pursuant to R 340.1724. If the parent does not appeal, the superintendent shall initiate the individualized education program within 15 school days after the parents have been notified. An initiation date may be later than 15 school days if clearly specified in the individualized education program; however, a projected initiation date may not be used to deny or delay programs or services because they are not available and may not be used for purposes of administrative convenience.

(3) If a handicapped person is being provided special education for the first time, the parent, within 7 calendar days of receipt of the notice from the superintendent, shall provide the public agency with written consent to provide special education programs and services. If the parent refuses consent or does not respond, then the public agency has the right to request a hearing on this matter pursuant to R 340.1723a(3)

R 340.1722b Implementation of the individualized education program when the district of residence is not the operating district.

Rule 22b. (1) The individualized educational planning committee report shall be directed to the superintendent of the district of residence. The superintendent shall have 7 calendar days from receipt of the report to either appeal the eligibility decision or the determination of the special education programs and services as specified in the individualized education program or to inform the superintendent of the operating district of the resident district's intent to renew or cancel its contract. If the superintendent does not wish to renew the contract, the superintendent shall inform the parent of the public agency's intent to provide special education programs and services. If the superintendent approves of the individualized education program and intends to renew the contract with the operating district, the superintendent shall send the individualized education program report with a support statement to the superintendent of the operating district.

(2) The superintendent of the operating district shall follow the procedures specified in R 340.1722a.

R 340.1722c Reconvening individualized educational planning committee meetings; participant responsibilities.

Rule 22c. (1) An individualized education program shall be reviewed at least once every 12 months.

(2) The operating district superintendent shall convene an individualized educational planning committee and shall appoint and invite participants pursuant to R 340.1721b to review a handicapped person's individualized education program. Participants at a meeting for this purpose shall do all of the following:

- (a) Review the person's level of educational performance.
- (b) Review the appropriateness of the individualized education program content and determine if the annual goals, the instructional objectives, and the performance objectives have been met.
- (c) Recommend 1 of the following:
  - (i) Revision of the current individualized education program. Participants shall develop an individualized education program for the handicapped person, the components of which are identified in R 340.1721e(3).
  - (ii) Continuation of the current individualized education program.
  - (iii) Graduation.
  - (iv) Additional diagnosis.

R 340.1722d Three-year evaluation of eligible handicapped persons.

Rule 22d. Each eligible handicapped person shall be provided with a comprehensive evaluation at least once every 36 months. This evaluation shall be completed by a multidisciplinary team and the results shall be presented at an individualized educational planning committee meeting pursuant to R 340.1721d(2)(a). Parental consent is not necessary for this comprehensive evaluation, unless medical or personality testing is required.

R 340.1722e Previous enrollment in special education.

Rule 22e. A handicapped person enrolled in a special education program in another school district, upon transfer to a new intermediate school district, and upon written consent of the parent, and with evidence of previous special education eligibility and placement, may be placed immediately in an appropriate special education program or service for a period not to exceed 30 school days, during which time an individualized educational planning committee shall be convened by the district of residence to review and possibly revise the person's individualized education program. This case shall have precedence over all other cases, except previous cases also being expedited under this rule.

R 340.1722f Time limitation.

Rule 22f. Any time limitation in this part shall be construed and applied so as to do substantial justice and may be varied upon approval of the state board of education, or its designee, for good cause shown, in writing, by either the public agency or the parent. A copy of the request shall be sent by the superintendent or parent, as the case may be, to the other party, and the state board's response shall be directed to both the superintendent and the parent.

R 340.1723 Right to examine records.

Rule 23. (1) The parents of a handicapped or suspected handicapped person shall have the right to inspect and review all educational records with respect to both of the following:

(a) The identification, evaluation, program, and educational placement of the person.

(b) The provision of a free appropriate public education to the person.

(2) Parents have the right to request a copy of any or all contents of their child's educational records subject to R 340.1866.

R 340.1723a Prior notice; parental consent.

Rule 23a. (1) Written notice that meets the requirements of R 340.1723b shall be given to the parents of a handicapped or suspected handicapped person 7 calendar days before the public agency does either of the following:

(a) Proposes to initiate or change the identification, evaluation, special education program, educational placement of the person, or the provision of special education programs and services designed to develop the maximum potential of the handicapped person.

(b) Refuses to initiate or change the identification, evaluation, special education program, educational placement of the person, or the provision of special education programs and services designed to develop the maximum potential of the handicapped person.

(2) Parental consent shall be obtained before doing either of the following:

(a) Conducting a preplacement evaluation.

(b) Initially providing special education and related services to a handicapped person.

(3) The public agency may use the hearing procedures in R 340.1724 to R 340.1724b to determine if the person may be evaluated or initially provided special education and related services without parental

consent. If the hearing officer upholds the agency, the agency may evaluate or initially provide special education and related services to the person without the parent's consent, subject to the parent's rights under R 340.1725 and R 340.1725a.

R 340.1723b Content of notice.

Rule 23b. (1) The notice required in R 340.1723a shall include all of the following:

(a) A full explanation of all of the procedural safeguards available to the parents under part 2 of these rules.

(b) A description and explanation of the action proposed or refused by rule number and officially designated title, an explanation of why the agency proposes or refuses to take the action, and a description of any options the agency considered, including the reasons why those options were considered or rejected.

(c) A description of each evaluation procedure, test, record, or report the agency uses as a basis for the proposal or refusal.

(d) A description of any other factors that are relevant to the agency's proposal or refusal.

(2) The notice shall comply with both of the following requirements:

(a) It shall be written in language understandable to the general public.

(b) It shall be provided in the native language of the parent, unless it is clearly not feasible to do so.

(3) If the native language of the parent is not a written language, the agency shall take steps to insure all of the following:

(a) That the notice is translated orally or by other means to the parents in their native language.

(b) That the parent understands the content of the notice.

(c) That there is written evidence that the requirements in subdivisions (a) and (b) of this subrule have been met.

R 340.1723c Right to an independent educational evaluation.

Rule 23c. (1) The parents of a handicapped person or suspected handicapped person shall have the right under this part to obtain an independent educational evaluation, subject to subrules (1) to (5) of this rule. Each public agency shall provide parents, upon request, with information of where an independent educational evaluation may be obtained.

(2) A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the public agency. However, the public agency may initiate a hearing under R 340.1724 to show that its evaluation is appropriate. If the hearing officer determines the evaluation to be appropriate, the parent still has the right to an independent educational evaluation, but not at public expense.

(3) If the parent obtains an independent evaluation at the parent's own expense, the results of the evaluation shall be considered by the public agency in any decision made with respect to the provision of a free appropriate public education to the person and may be presented as evidence at a hearing.

(4) If a hearing officer requests an independent educational evaluation as part of a hearing, the cost of the evaluation shall be at public expense.

(5) When an independent evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, shall be the same as the criteria which the public agency uses when it initiates an evaluation.

R 340.1724 Impartial due process hearing.

Rule 24. (1) A parent or a public educational agency may initiate a hearing on any of the matters described in R 340.1723a(1)(a) and (b).

(2) The hearing shall be arranged and conducted by the operating district directly responsible for the education of the person, and the district of residence shall reimburse the operating district for all direct costs incurred as a result of arranging and conducting the hearing.

(3) The public agency shall inform the parent in writing of any free or low-cost legal or other relevant services available in the area if the parent requests the information or if the parent or the agency initiates a hearing under this rule.

(4) The public agency and parent may, at any time, by written stipulation, agree to be bound by the determination of the mutually agreeable third party with respect to any matter described in R 340.1723a(1)(a) and (b). Such stipulation shall comply with all of the following:

- (a) It shall set forth procedures that the parties have agreed upon, such as selection of the arbitrator, payment of costs, representation, and timelines.
- (b) It shall be entered into by the parent only after having been given proper notification pursuant to R 340.1723a and R 340.1723b.
- (c) It shall constitute a waiver on the part of both parties to proceed further with the matter during the period covered by the agreement under R 340.1724, R 340.1724b, R 340.1725, or R 340.1725a or the education for all handicapped children act of 1975, 45 C.F.R. §§121a.506, 508, 510, and 511. (August 23, 1977). The agreement shall contain the acknowledgement of both parties that notification has been given pursuant to subdivision (b) of this subrule and such waiver.
- (d) It shall provide that the determination of the third party is final and binding upon both parties for a stated period of time not to exceed 1 calendar year. Such determination shall be implemented pursuant to R 340.1722e and R 340.1722(1).
- (e) It shall provide that upon showing a substantial change in circumstances, either party may request a modification of the determination from the previously agreed upon third party or the newly agreed upon third party, if necessary.

(5) The hearing or appeal procedure may be suspended, delayed, or terminated at any point upon written stipulation by the public agency and the parent without approval by the state board of education or its designee.

(6) Interpreters shall be provided for persons of limited English speaking ability and for the deaf.

R 340.1724a Impartial hearing officer.

Rule 24a. (1) The superintendent of the public agency shall designate an impartial hearing officer who is mutually agreeable to both parties. If the parent and the public agency cannot agree on a hearing officer, the superintendent shall request that the department appoint an impartial hearing officer.

(2) A hearing shall not be conducted by any of the following individuals:

- (a) A person who is an employee of a public agency involved in the education or care of the person.
- (b) Any person with a personal or professional interest which would conflict with the person's objectivity in the hearing.
- (c) An employee or board member of the involved local school district, of another local district within the same intermediate school district, or of the intermediate school district of which the involved local district is a part.

(3) A person who qualifies to conduct a hearing under subrule (2) of this rule is not an employee of the agency solely because the person is contracted to serve as the hearing officer.

(4) Each public agency shall keep a list of the persons who serve as hearing officers. The list shall include a statement of the qualifications of each of those persons.

(5) The hearing officer may render a decision in regard to any of the matters described in R 340.1723a(1)(a) and (b).

R 340.1724b Hearing rights.

Rule 24b. (1) Any party to a hearing has all of the following rights:

- (a) The right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of handicapped persons.
- (b) The right to present evidence and confront, cross-examine, and compel the attendance of any witness testifying for the public agency and any official, employee, or agent of the public agency who may have evidence upon which the proposed action may be based.
- (c) The right to prohibit the introduction of any evidence that has not been disclosed to that party not less then 5 calendar days before the hearing.
- (d) The right to obtain a written or electronic verbatim record of the hearing.
- (e) The right to obtain written findings of fact and decisions. The public agency shall transmit those findings and decisions, after deleting any personally identifiable information, to the state advisory committee established under section 9a of Act No. 287 of the Public Acts of 1964, as amended, being §388.1009a of the Michigan Compiled Laws.

(2) The parent may request alternate forms of the verbatim record to be provided in the parent's native language.

(3) Parents involved in hearings shall be given both of the following rights:

- (a) The right to open the hearing to the public.
- (b) The right to have the person who is the subject of the hearing present.

(4) The decision made by the hearing officer is final, unless a party appeals under R 340.1725.

R 340.1725 Administrative appeal; impartial review.

Rule 25. (1) Any party aggrieved by the findings and the decision of a hearing conducted under R 340.1724b may appeal to the department within 7 calendar days of receipt of the decision.

(2) If there is an appeal, the state educational agency shall conduct an impartial review of the hearing. The official conducting the review shall do all of the following:

- (a) Examine the entire hearing record, which shall be provided to the state by the public agency in written verbatim form.
- (b) Insure that the procedures at the hearing were consistent with the requirements of due process.
- (c) Seek additional evidence if necessary. If a hearing is held to receive additional evidence, the rights in R 340.1724b apply.
- (d) Afford the parties an opportunity for oral or written argument, or both, at the discretion of the reviewing official.
- (e) Make an independent decision on completion of the review. The reviewing officer may affirm, reverse, or modify the decision of the hearing officer or may remand the matter to the hearing officer for further proceedings.
- (f) Give a copy of written findings and the decision to the parties, subject to R 340.1723b(2) and (3).

(3) The decision made by the reviewing official is final, unless a party brings a civil action under R 340.1725a.

R 340.1725a Civil action.

Rule 25a. Any party aggrieved by the findings and decision made in a hearing and who does not have the right to appeal under R 340.1725, and any party aggrieved by the decision of a reviewing officer under R 340.1725, shall have the right to bring a civil action with respect to the issue presented pursuant to this rule without regard to the amount in controversy. A civil action may be brought in any court of competent jurisdiction.

R 340.1725b Time lines and convenience of hearings and reviews.

Rule 25b. (1) The public agency, upon receipt of the individualized educational planning committee's report, shall have 7 calendar days to appeal pursuant to R 340.1724.

(2) The parent, upon receipt of notification from the public agency, shall have 7 calendar days to appeal pursuant to R 340.1724.

(3) A hearing shall be scheduled not less than 15 nor more than 30 calendar days following receipt of the request from a parent or the public agency.

(4) The hearing officer shall, not later than 30 calendar days after the hearing, do both of the following:

- (a) Reach a final decision regarding the hearing.
- (b) Send a copy of the decision by certified mail, receipt requested, to each of the parties and to the department.

(5) The total number of days stipulated in subrules (3) and (4) of this rule shall not be more than 45 calendar days.

(6) The department, upon receipt of a written request for a review, and upon the receipt of the transcripts and exhibits, shall insure that within 30 calendar days a final decision is reached in the review and a copy of the decision is sent by certified mail, receipt requested, to each of the parties.

(7) A hearing officer may grant specified extensions of time beyond the periods set forth in subrules (1) to (5) of this rule upon request of either party and upon mutual agreement of both parties if such extensions are not in conflict with other provisions of Act No. 451 of the Public Acts of 1976, as amended, being §380.1701 et seq. of the Michigan Compiled Laws. If the parties cannot agree upon the request, the request may be reviewed by the department which shall make a determination in the request. At the request of either party, a reviewing officer may grant extensions of time beyond the periods set forth in subrule (6) of this rule and R 340.1725(1).

(8) Each hearing and each review involving oral arguments shall be conducted at a time and place reasonably convenient to the parties involved.

R 340.1725c Student's status during proceedings.

Rule 25c. (1) During the pendency of any administrative or judicial proceeding pertinent to this part, unless the public agency and the parents of the person agree otherwise, the person involved in the hearing shall remain in their present educational placement.

(2) If the hearing involves an application for initial admission to a public school, the person, with the consent of the parents, shall be placed in the public school program until the completion of all of the proceedings.

R 340.1725d Protecting students' rights.

Rule 25d. Each public agency shall assure that handicapped persons under the age of 18 have a parent or legal guardian to represent their interests. If no parent or legal guardian, as defined in R 340.1701a(h) can be identified, or if the public agency, after reasonable effort, cannot discover the whereabouts of a parent or legal guardian, the public agency shall notify the court of jurisdiction and request the court to take action to assure that the person has a legal guardian.

PART 3. ADMINISTRATION OF PROGRAMS AND SERVICES

R 340.1732 Designation of residency.

Rule 32. (1) A handicapped person under 26 years of age as of September 1 who habitually sleeps, keeps personal effects and regularly lodges at a place not for the purpose of securing a suitable home but for an educational purpose, or who is lodged at a place as directed by an agency or institution under the auspices of a juvenile or probate court, the department of mental health, or the department of social services, such as a private home, group home, or a private or public institution, is a resident of the school district in which the person's parents reside, except in the following situations:

(a) The parents are legally separated or divorced, in which case the person is a resident of the district in which the parent having custody resides.

(b) A guardian has been appointed to provide the handicapped person with a suitable education, in which case the person is a resident of the district in which the guardian resides.

(c) The handicapped person has no living parent or a guardian, or the parents reside out of the state, in which case the person is a resident of the district in which the probate court having control or custody is located.

(2) A handicapped person, who is not covered in subrule (1), of this rule and who is under 26 years of age as of September 1 is a resident of the school district in which the person habitually sleeps, keeps personal effects, and has a regular place of lodging for the purpose of securing a suitable home and not solely for an educational purpose.

(3) Notwithstanding the provisions of subrules (1) and (2) of this rule, if the handicapped person placed under the order or direction of a court or child placement agency is lodged in a state institution, a licensed foster home, a licensed nursing home, or a licensed group residential facility, then the local school district in which the institution, home, or facility is located shall provide for the delivery of special education programs and services to the handicapped person pursuant to section 1751 of Act No. 451 of the Public Acts of 1976, as amended, being §380.1751 of the Michigan Compiled Laws. The handicapped person shall be deemed to be a resident of the local district for the purpose of record maintenance required by section 1757 of Act No. 451 of the Public Acts of 1976, as amended, being §380.1757 of the Michigan Compiled Laws and for the purpose of providing for the delivery of special education programs and services; however, for all other purposes, including funding, the handicapped person's residence shall be determined pursuant to subrules (1) and (2) of this rule.

(4) Notice of a disagreement between 2 or more school districts as to the residency of a handicapped person shall be sent to the department by a school district involved. The notice shall include the names of all of the school districts allegedly involved and the name and address of the parent, the guardian or the handicapped person if over 18 years of age. The department, or its representative, shall immediately notify the school districts allegedly involved and the parent, guardian or handicapped person of the receipt of notice of a disagreement. Within 7 calendar days of receipt of notice, all parties shall provide the department with their position and appropriate facts in support thereof. The department, or its representative, within 14 calendar days of receipt of notice of a disagreement, shall investigate the matter, consider the information received from the parties involved, and make a determination as to the residency of the handicapped person. A copy of the department's determination shall be sent to each party involved. Upon demonstration, in writing, of just cause by any party involved, the state board of education or its designee may extend the time limits set forth in this subrule.

R 340.1733 Program and service requirements.

Rule 33. An intermediate school district, local district and any other agency shall adhere to the following general requirements for all programs and services for handicapped persons:

(a) Special education classrooms shall have at least the same average number of square feet per student as regular classrooms in the school district.

(b) Special education classrooms shall be located in schools housing regular education pupils of comparable age and grade level. Each handicapped person shall be assigned to educational programs and services housed in buildings that allow handicapped persons to participate fully in regular and special education programs, services, or extracurricular activities. Nothing in these rules shall prohibit special education programs, such as specialized vocational training or programs for more severely involved impairment areas, to be housed in places other than the schools with regular education programs, if such programs are set forth in the intermediate school district plan and are approved by the state board of education.

(c) Teachers providing instructional services and special education ancillary personnel shall have space designated on a scheduled basis in each building to afford individual and small group work.

(d) Special education classrooms with children under 16 years of age shall not exceed a 4-year age span at any one time, except for the severely mentally impaired, the trainable mentally impaired, or the severely multiply impaired.

(e) Performance objectives based on the annual goals and objectives in the individualized education program shall comply with all of the following:

  (i) Be written by special education personnel for persons assigned to a special education program or service.

  (ii) Be developed in accordance with the student's needs in the cognitive, affective, and psychomotor domains with special attention to personal adjustment, prevocational, physical education, and vocational training.

  (iii) Be developed and carried out cooperatively by regular and special educators for those areas of instruction under the direct supervision of special education personnel when a handicapped student is assigned to the regular education curriculum.

  (iv) Be developed by ancillary service personnel relative to the service they provide.

  (v) Be available to the parent and may be reviewed by the department or its designee.

(f) The special education programs' and services' methods of instruction shall be consistent with the performance objectives written for each handicapped person.

(g) The instructional program for a school day shall focus on the individual needs of each handicapped person, as determined through the individualized education programs.

(h) Special education programs and services shall be provided for at least the minimum number of hours and days of teacher-pupil contact in conformance with the child accounting rules, being R 340.1 to R 340.13, but the number of hours and days for a special education program or service shall be not less than those required for regular education programs.

(i) Handicapped persons qualifying for special education programs and services shall be provided with supplies and equipment at least equal to those provided to other students in regular education programs, in addition to, those supplies and equipment necessary to meet their defined performance objectives.

(j) Physical therapy service shall be provided to a handicapped person if prescribed by an appropriate medical authority and recommended by the individualized educational planning committee as an essential component of the educational program.

(k) Physical education services, specially designed if necessary, shall be made available to every handicapped student. Each handicapped student shall be afforded the opportunity to participate in the regular physical education program available to nonhandicapped students, unless the student is enrolled full time in a separate facility or needs specially designed physical education as prescribed in the student's individualized education program.

(l) The expense of additional diagnostic services recommended by the individualized educational planning committee and required by the school district, including neurological, medical, psychiatric, and other professional services not provided by the school district or other public agencies nor covered by medical insurance, shall be borne by the handicapped person's district of residence.

(m) Intermediate school districts or local districts may operate or contract for vocational evaluation services, work activity center services, and ancillary services.

(n) Intermediate school districts or local districts, or a combination of such districts, may provide for work study services and, with approval of the state board of education, may assign special education personnel to the supervision of work study services. A written work study plan, signed by the parent, school, and employer, shall set forth the educational goals, job activities, related subjects, standards of attainment, time and duration of the program, and wages to be paid to the handicapped person. The superintendent of the district shall designate a staff member to visit the person and the person's supervisor at the job site at least once every 20 school days to check attendance, evaluate the handicapped person's progress, and evaluate the placement in terms of the health, safety, and welfare of the handicapped person. Where provided, these services shall be available to handicapped persons, regardless of their disability, if either of the following conditions is met:

  (i) Prerequisite personal adjustment training, prevocational education, and vocational training have been provided.

  (ii) Eligibility for special education programs and services shall cease within 1 additional school year.

(o) Personnel development shall be conducted pursuant to findings of an annual needs assessment. The training shall be made available to both special and regular education personnel. The persons providing training, which may be district, university or agency, teacher center, or state department based, may include handicapped persons and parents of handicapped persons, as well as special and regular education personnel. The training programs to be delivered shall include all of the following if appropriate:

  (i) Requirements and procedures of state and federal mandatory education acts.

  (ii) Placement and education of the handicapped person in the regular education curriculum, including the various aids and supportive services related thereto.

  (iii) Affective education involving the importance of interaction with handicapped persons on a peer level.

R 340.1734 Deviations from rules.

Rule 34. (1) A deviation from these rules shall be requested in writing from the state board of education or its designee by an intermediate or local district operating or contracting for special education programs and services. A copy of the request shall be filed concurrently with the intermediate school district in which affected handicapped persons reside and all local constituent school districts in which the affected handicapped persons reside. A copy of the request shall be filed concurrently with the parent advisory committee of the intermediate school district requesting the deviation and the parent advisory committee of any intermediate school district in which affected handicapped persons reside.

(2) Within 7 days of receipt of the request, the intermediate school district shall file with the state board of education or its designee its objections to, approval of, and rationale regarding, the request.

(3) The state board of education or its designee shall initiate action within 30 calendar days of receipt of the request. The board or designee may grant the request in writing for a period not to extend beyond the end of the current school year and upon such terms and conditions as it shall specify only when, in its judgment, the best interests of those handicapped persons affected by such deviation are served and good cause is shown.

(4) A deviation shall not be granted when the intent of the deviation is to exclude a handicapped person from, or deny a handicapped person participation in, a special education program or service which is required.

(5) A program deviation granted by the state board of education or its designee is public information. The affected intermediate school districts and local constituent districts shall inform their involved personnel of granted deviations in any manner they deem appropriate.

R 340.1736 Paraprofessional personnel.

Rule 36. Paraprofessional personnel may be employed to assist special education professional personnel pursuant to the intermediate school district plan. Paraprofessional personnel include, but are not limited to, teacher aides, health care aides, bilingual aides, instructional aides, and program assistants in programs for the severely mentally impaired and the severely multiply impaired.

R 340.1737 Additional requirements by handicapping condition.

Rule 37. Each type of handicapped person, as defined in part 1, of these rules shall be provided programs and services pursuant to the intermediate district plans and the specific requirements in R 340.1738 to R 340.1749 and R 340.1754 to R 340.1757, in addition to the programs generally provided to all handicapped children as described in R 340.1733.

R 340.1738 Severely mentally impaired programs.

Rule 38. Specific requirements for programs and services for the severely mentally impaired shall be as follows:

(a) An instructional unit for the severely mentally impaired shall consist of at least 1 teacher and four instructional aides for a maximum of 24 students, with an average ratio of 1 instructional aide for 6 students. At least 1 full-time teacher and 1 full-time aide shall be employed in every program for the severely mentally impaired.

(b) A school year for the severely mentally impaired shall include a minimum of 230 days and 1,150 clock hours of instructional activities.

(c) Persons employed in a severely mentally impaired program shall have the following responsibilities:

  (i) Teachers shall be responsible for the instructional program and shall coordinate the activities of aides and supportive professional personnel.

  (ii) Instructional aides shall work under the supervision of the teacher and assist in the daily training program for not more than 6 severely mentally impaired students.

  (iii) Program assistants may assist the teacher and the instructional aides in the feeding, lifting, and individualized care of severely mentally impaired students.

R 340.1739 Trainable mentally impaired programs.

Rule 39. Specific requirements for programs and services for the trainable mentally impaired are as follows:

(a) After August 31, 1975, all classroom programs for the trainable mentally impaired shall be provided in buildings constructed or renovated for use as school facilities.

(b) A classroom unit for the trainable mentally impaired shall consist of either of the following:

  (i) One teacher and 1 teacher aide for a maximum of 15 students.

  (ii) One lead teacher with maximum of 3 instructional aides for a maximum of 30 students, with not more than 10 students for each aide.

R 340.1740 Educable mentally impaired programs.

Rule 40. With respect to programs for the educable mentally impaired, not more than 15 students shall be in the classroom at any one time, and the teacher shall have responsibility for the educational programming for not more than 18 different students.

R 340.1741 Emotionally impaired programs.

Rule 41. Programs for the emotionally impaired shall have not more than 10 students in the classroom at any one time, and the teacher shall have responsibility for educational programming for not more than 15 different students.

R 340.1742 Hearing impaired programs.

Rule 42. (1) Specific requirements for programs and services for hearing impaired persons are as follows:

(a) A special class with 1 teacher shall have an enrollment of not more than 7 students.

(b) Group hearing aids deemed necessary for instruction by the individualized educational planning committee shall be provided. The public agency shall insure that the amplification devices worn by hearing impaired children in school are functioning properly.

(c) Communication skills and language shall be emphasized as an integral part of the curriculum.

(2) The Michigan school for the deaf shall be considered a part of the total continuum of services for hearing impaired persons. The following procedures are necessary for admission:

(a) A request for assignment to the Michigan school for the deaf shall be submitted by the intermediate school district superintendent or designee to the superintendent of the Michigan school for the deaf.

(b) Before application, the person shall have been identified by the referring school district as hearing impaired pursuant to R 340.1707.

(3) The agency initiating an assignment into or out of the Michigan school for the deaf shall be responsible for establishing the individualized educational planning committee. Representatives of the local school district and the intermediate school district of residence and the Michigan school for the deaf shall be invited to participate in the individualized educational planning committee meeting.

R 340.1743 Visually impaired programs.

Rule 43. (1) Specific requirements for programs and services for the visually impaired are as follows:

(a) Class size shall be determined by the severity and multiplicity of the impairments of the visually impaired students. A special class with 1 teacher shall have an enrollment of not more than the equivalent of 8 full-time students and the teacher shall have responsibility for the educational programming for not more than 10 different students.

(b) The curriculum shall include instruction in orientation and mobility, assistance in early development of comprehensive communication skills, personal adjustment education, and prevocational and vocational experience.

(c) An agency operating special education programs and services for the visually impaired may also operate a program of transcription of education materials into braille pursuant to R 388.261 to R 388.265 of the Michigan Administrative Code.

(2) The Michigan school for the blind shall be considered a part of the total continuum of services for visually impaired persons. The following procedures are necessary for admission:

(a) A request for assignment to the Michigan school for the blind shall be submitted by the intermediate school district superintendent, or his or her designee, to the superintendent of the Michigan school for the blind.

(b) Before application, the person shall have been identified by the referring school district as visually impaired pursuant to R 340.1708.

(3) The agency initiating an assignment into or out of the Michigan school for the blind shall be responsible for establishing the individualized educational planning committee. Representatives of the local school district, the intermediate school district of residence, and the Michigan school for the blind shall be invited to participate in the individualized educational planning committee meeting.

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R 340.1744 Physically or otherwise health impaired programs.

Rule 44. Specific requirements for programs for the physically or otherwise health impaired are as follows:

(a) The class size shall be not more than the equivalent of 15 full-time students per teacher.

(b) Special classroom units serving physically or otherwise health impaired shall provide not less than 60 square feet of floor space per person.

(c) Health care aides may be employed to serve in a supportive capacity to the nurse, physical therapist, or occupational therapist.

R 340.1745 Speech and language impaired instructional services.

Rule 45. Specific requirements for instructional services for the speech and language impaired are as follows:

(a) The extent of instructional services provided by a teacher of the speech and language impaired for persons determined to be eligible for special education in R 340.1703 to R 340.1714 shall be based on the handicapped person's needs as determined by the individualized educational planning committee after reviewing a diagnostic report provided by a teacher of the speech and language impaired.

(b) The determination of caseload size for an individual teacher of the speech and language impaired shall be made by the teacher of the speech and language impaired in cooperation with the district director of special education, or his or her designee, and the building principal or principals of the school or schools in which the students are enrolled. Caseload size shall be based upon the severity of the handicaps and the intensity of the service defined in the collective individualized education programs of the students to be served, allowing time for diagnostics, report writing, individualized educational planning committee meetings, and travel.

(c) Individual teacher caseloads shall not exceed 75 different persons.

R 340.1746 Homebound and hospitalized services.

Rule 46. Specific requirements for homebound and hospitalized services are as follows:

(a) Homebound services shall be initiated within 15 school days after certification, by a licensed physician, of a medical handicap which requires the person to be confined to the home. Such certification shall indicate the anticipated duration of the required confinement. If the anticipated duration will exceed 1 school year, the student shall be evaluated under the provisions of R 340.1709.

(b) Hospital services shall be provided for persons who cannot attend school because of hospitalization for a physical or medical impairment. These services shall be initiated when determined medically feasible.

(c) A special education teacher employed for homebound or hospital services, or for a combination of these services, shall be assigned not more than 12 students at any one time.

(d) Progress reports for each person shall be recorded pursuant to the intermediate school district plan.

(e) Students receiving homebound or hospital services shall receive a minimum of 2 nonconsecutive hours of instruction per week. Ancillary personnel may supplement, but not substitute for, the teacher's instruction.

(f) Homebound and hospital services shall not be utilized to serve handicapped persons who are severely emotionally impaired, severely multiply impaired, trainable mentally impaired, or severely mentally impaired, except where the person meets the requirements in subdivision (a) of this rule.

(g) It is the responsibility of the district in which the hospital is located to make homebound and hospital services available to eligible students. If the student is hospitalized outside of the district of residence, the district of residence is responsible for delivering services or for contracting with the operating district and making payment for the services.

R 340.1747 Specific learning disabilities programs.

Rule 47. A special education program serving learning disabled students shall have not more than 10 students in the classroom at any one time, and the teacher shall have responsibility for educational programming for not more than 15 different students.

R 340.1748 Severely multiply impaired programs.

Rule 48. Specific requirements for programs and services for the severely multiply impaired are as follows:

(a) An instructional unit for the severely multiply impaired shall consist of at least 1 teacher and 2 instructional aides for a maximum of 9 students. At least 1 full-time teacher and 1 full-time aide shall be employed in every severely multiply impaired program. The supportive services of a physical therapist, an occupational therapist, a teacher of the speech and language impaired, and a nurse shall be reasonably available.

(b) A school year for the severely multiply impaired shall include a minimum of 230 days and 1,150 clock hours of instructional activities.

(c) The program shall emphasize treatment of the total person rather than service to any single handicap in isolation.

(d) Persons employed in severely multiply impaired programs shall have the following responsibilities:

  (i) Teachers shall be responsible for the instructional program, shall coordinate the activities of instructional aides and other supportive personnel, and shall maintain a systematic method of home-school liaison.

  (ii) Instructional aides shall work under the supervision of the teachers and shall assist in the daily program for not more than 3 students.

  (iii) Program assistants shall be utilized where necessary and shall have the responsibilities indicated in R 340.1738 for program assistants in severely mentally impaired programs; otherwise, instructional aides shall have these responsibilities.

R 340.1749 Teacher consultant generally.

Rule 49. The teacher consultant for special education:

(a) Shall provide instructional or other support services to students who have been identified as handicapped.

(b) Shall provide services to students whose handicap is such that they may be educated effectively within a regular classroom if supportive service is provided to them.

(c) Shall provide consultation to education personnel on behalf of handicapped persons on their caseload.

(d) Shall carry an active case load of not more than 25 handicapped students. All students served under this rule shall be counted as part of the active case load.

(e) May provide educational services to handicapped persons in the handicapped person's home.

(f) May be employed as an itinerant staff person in 1 or more school buildings.

(g) May work as a member of a multidisciplinary evaluation team to assist in the evaluation of the educational needs of persons suspected of being handicapped.

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R 340.1750 Director of special education.

Rule 50. Each intermediate school district shall employ or contract for the services of a director of special education. Local districts may employ or contract for the services of a director of special education pursuant to the intermediate district plan. For the district to qualify for reimbursement, the director shall perform such full-time duties as the development, organization, and administration of special education programs and services, the planning and conducting of inservice education programs, the development and maintenance of continuous evaluation procedures for special education, the liaison with school staff and the community, the preparation of special education reports, and other duties related to special education as assigned.

R 340.1751 Supervisor of special education.

Rule 51. A supervisor of special education instructional programs, or other equivalent title, may be employed and shall perform in an administrative, supervisory, or consultative capacity for the instructional phases of specific areas of special education. The person shall perform such full-time duties as supervising and advising teachers providing instructional programs for the handicapped, assisting in the planning and conducting of inservice education programs, providing consultative services to the entire staff of the district and others concerning the instructional phases of specific areas of special education, and other administrative duties relating to special education as assigned. While a supervisor's primary responsibility is the supervision of personnel providing instructional services in special education, duties may include the supervision of ancillary special education personnel.

R 340.1752 Supervisor of ancillary services.

Rule 52. A supervisor of special education ancillary services, or other equivalent title, may be employed and shall perform in an administrative, supervisory or consultative capacity. The person shall perform such full-time duties as supervising and advising ancillary personnel providing services for the handicapped, assisting in the planning and conducting of inservice education programs, providing consultative services to the entire staff of the district, and other administrative duties relating to special educaiton ancillary services as assigned.

R 340.1753 Curriculum resource consultant.

Rule 53. A curriculum resource consultant is a fully approved special education teacher consultant specializing in the structure and planning of curriculum, media, and inservice education, and the acquisition, categorization, evaluation, or distribution of materials.

R 340.1754 Preprimary impaired classroom programs; effective date.

Rule 54. Specific requirements for classroom programs for the preprimary impaired are as follows:

(a) A special education-approved, preprimary teacher shall be provided to children 3 to 5 years of age based upon the child's individual needs as specified by the individualized educational planning committee. Districts may include children up to 2 years of age.

(b) The program shall be available for a minimum of 450 clock hours and 180 days of instruction.

(c) The program shall have not more than 10 students for 1 teacher and 1 aide at any one time, and the teacher shall have responsibility for the educational programming for not more than 20 different students.

(d) The program shall have a parent participation and education component.

(e) This rule shall take effect on September 1, 1981.

R 340.1755 Instructional services to preprimary age children; effective date.

Rule 55. Specific requriements for nonclassroom instructional services for preprimary age impaired children are as follows:

(a) Instructional services shall be provided by a special education-approved, preprimary teacher to children up to 5 years of age based upon the child's individual needs as specified by the individualized educational planning committee.

(b) Instructional services shall include a minimum of 2 hours of instruction per week, but not less than 72 clock hours in 180 days of instruction. Instructional services may be provided in a home or school setting.

(c) If instructional services are provided in a school setting, the teacher shall have not more than 4 children nor more than 8 children for 1 teacher and 1 aide at one time.

(d) The program shall have a parent participation and education component.

(e) This rule shall take effect on September 1, 1981.

R 340.1756 Severely language impaired classroom programs.

Rule 56. (1) A public agency may establish classroom programs for severely language impaired persons. Specific requirements for these programs are as follows:

(a) A severely language impaired classroom program conducted by a teacher of the speech and language impaired shall serve only the preprimary or elementary level severely language impaired.

(b) The program shall have not more than 10 students in the classroom at any one time, and the teacher shall have responsibility for the educational programming for not more than 15 different students.

(2) Speech and language impaired persons eligible for this program are those with a severe disability in the comprehension or expression of language as determined through the manifestation of all of the following characteristics which adversely affects educational performance:

(a) Demonstration of functioning within or above normal intellectual potential as measured by instruments that do not rely exclusively on oral direction or oral expression.

(b) Test results on not less than 2 standardized assessment instruments or 2 subtests designed to determine language functioning which clearly show language functioning not appropriate for the person's mental age.

(c) Oral language at less than the expected level based on the person's mental age in not less than 2 of the following areas: phonology, morphology, syntax, semantics, and pragmatics.

(3) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team which shall include a teacher of the speech and language impaired and a psychologist.

(4) The severely language impaired program shall not include persons whose language impairment is primarily the result of mental, emotional, hearing, visual, physical, or other health impairments as defined in part I of these rules.

R 340.1757 Other related educational services for youth placed in juvenile detention facilities.

Rule 57. Specific requirements for educational services conducted for youth placed in juvenile detention facilities are as follows:

(a) Programs shall be initiated within 5 calendar days after admission. If a person placed in a juvenile detention facility is suspected of being handicapped, the procedure outlined in part 2 of these rules shall be immediately followed.

(b) Notification of educational placement shall be sent to the superintendent of the district of residence within 5 school days after the date of entry of a person into the educational program in a juvenile detention facility.

(c) Education reports for each person educated in a juvenile detention facility shall be sent by certified mail to the superintendent of the district of residence, with the consent of the parent, within 5 school days from the date of release from the facility.

(d) Special education reimbursed personnel may provide educational services for nonhandicapped persons placed in the facility, if the programs comply with both of the following:

- (i) They are under the supervision of a teacher approved in the area of the emotionally impaired.
- (ii) They have not more than 10 students in a class at any one time.

PART 4. QUALIFICATIONS OF DIRECTORS AND SUPERVISORS

R 340.1771 Director of special education; education and experience requirements.

Rule 71. (1) For full approval, a director of special education shall possess all of the following minimum qualifications:

(a) An earned master's degree or equivalent.

(b) Full approval in at least 1 area of special education.

(c) Three years of successful professional practice or administrative experience in special education, or combination thereof.

(d) Thirty semester or 45 term hours of graduate credit and a successful 200 clock hour practicum in special education administration. Graduate credit shall be earned in a college or university whose program has been approved by the state board of education and shall be distributed appropriately to assure knowledge and competency as related to special education in the following areas:

- (i) Program development and evaluation.
- (ii) Personnel staffing, supervision, and evaluation.
- (iii) Interpersonal relationships, communications, persuasion, and morale.
- (iv) Evaluation of inservice organization and managment.
- (v) Budgeting, financing, and reporting.
- (vi) Parent relationships.
- (vii) School plant planning.
- (viii) Consultation.
- (ix) Research and grant writing.
- (x) Office managment.
- (xi) School-related legal activities and due process hearings.

(e) One year of successful experience as a special education director in an approved special education program.

(f) Recommendation from a college or university approved for the preparation of special education directors which attests that the person has acquired the knowledge and competencies in subdivision (d) of this subrule and has demonstrated leadership ability and general knowledge of issues and problems in all disability areas of special education.

(2) For temporary approval, a director of special education shall possess all of the following minimum qualifications:

(a) An earned master's degree or equivalent.

(b) Full approval in at least 1 area of special education.

(c) Three years of successful professional practice or adminsitrative experience in education, or combination thereof.

(d) Twelve semester or 18 term hours of graduate credit and a successful 200 clock hour practicum in special education adminsitration. Graduate credit shall be earned in a college or university whose program has been approved by the state board of education and shall be distributed appropriately to assure knowledge and competency related to special education in the areas designated in subrule (1)(d) of this rule.

(e) Recommendation from a college or university approved for the preparation of special education directors.

(f) Continuation of temporary approval is dependent upon the satisfactory completion of not less than 6 semester or 9 term hours of required credit toward full approval before the beginning of the next school year.

R 340.1772 Supervisor of special education; education and experience requirements.

Rule 72. (1) For full approval, a supervisor of special education shall possess all of the following minimum qualifications:

(a) An earned master's degree or equivalent.

(b) Full approval in at least 1 area of special education.

(c) Three years of successful experience in special education.

(d) Twelve semester or 18 term hours of graduate credit in a college or university whose program has been approved by the state board of education. Graduate credit shall be distributed appropriately to assure knowledge and competency as related to special education in the following areas:

  (i) Systematic study of curriculum.
  (ii) Administrative and supervisory procedures.
  (iii) Evaluation methods and procedures.
  (iv) Communication skills techniques.
  (v) Inservice education.

(e) One year of successful experience as a supervisor of special education in an approved special education program.

(f) Recommendation from a college or university approved for the preparation of special education supervisors, relative to leadership, knowledge, and competency in the areas listed in subdivision (d) of this subrule.

(2) For temporary approval, a supervisor of special education shall possess all of the following minimum qualifications:

(a) An earned master's degree or equivalent.

(b) Full approval in at least 1 area of special education.

(c) Three years of successful experience in special education.

(d) Recommendation from a college or university approved by the state board of education for preparation of special education supervisors.

(e) Continuation of temporary approval is dependent upon the satisfactory completion of not less than 6 semester or 9 term hours of required credit toward full approval before the beginning of the next school year.

R 340.1773 Presently employed director or supervisor.

Rule 73. A director or supervisor of special education programs with full approval status or grandparent status on the date this rule becomes effective shall be granted full approval.

R 340.1774 Supervisor of ancillary services; education and experience requirements.

Rule 74. (1) For full approval, a supervisor of ancillary services shall possess all of the following minimum qualifications:

- (a) An earned master's degree or equivalent.
- (b) Full approval in at least 1 ancillary area of special education.
- (c) Three years of successful experience in special education.
- (d) Twelve semester or 18 term hours of graduate credit in a college or university, whose program has been approved by the state board of education. Graduate credit shall be distributed appropriately to assure knowledge and competency as related to special education in the following areas:
  - (i) Systematic study of curriculum.
  - (ii) Administrative and supervisory procedures.
  - (iii) Evaluation methods and procedures.
  - (iv) Communication skills techniques.
  - (v) Inservice education.
- (e) One year of successful experience as a supervisor of ancillary special education services.
- (f) Recommendation from a college or university approved for the preparation of special education supervisors relative to demonstrated leadership, knowledge and competency in areas listed under subdivision (d) of this subrule.

(2) For temporary approval, a supervisor of ancillary services shall possess all of the following minimum qualifications:

- (a) An earned master's degree or equivalent.
- (b) Full approval in at least 1 ancillary area of special education.
- (c) Three years of successful experience in special education.
- (d) Recommendation from a college or university approved by the state board of education for the preparation of special education supervisors.
- (e) Continuation of temporary approval is dependent upon the satisfactory completion of not less than 6 semester or 9 term hours of required credit toward full approval before the beginning of the next school year.

PART 5. QUALIFICATIONS OF TEACHERS AND OTHER PERSONNEL

R 340.1781 Teachers of the handicapped; approval generally.

Rule 81. For full or temporary approval by the state board of education or its designee, a teacher shall meet the requirements in R 340.1782 to R 340.1788 and R 340.1795 to R 340.1797 before being employed by an intermediate school district, constituent district, or other agency operating special education programs and services.

R 340.1782 Fully approved teachers of the handicapped; additional requirements.

Rule 82. A fully approved teacher of the handicapped, in addition to meeting specific requirements set forth in R 340.1785 to R 340.1791 and R 340.1795 to R 340.1797, shall comply with all of the following:

- (a) Possess a valid Michigan teacher's certificate.
- (b) Possess a baccalaureate degree with a major in the specific special education area or have earned credit in course work equivalent to that required for a major.
- (c) Have completed a practicum of not less than 8 weeks duration, or an equivalent educational experience, in the specific area of impairment.
- (d) Be recommended for a certificate endorsement constituting full approval in a specific special education area by an institution of higher education signifying verification of completion of a teacher education program for the specific special education area, as approved by the state board

of education. The recommendation shall verify that the teacher possess personal maturity, emotional stability, ability to teach, other leadership capacities and apparent potential for growth in creative teaching.

(e) Have completed coursework that includes the requirements and procedures of the state and federal mandatory special education acts, rules, and regulations.

R 340.1783 Temporarily approved teachers of the handicapped.

Rule 83. (1) A temporarily approved teacher of the handicapped shall meet all requirements for full approval except that 1/2 the course credit for the major, or equivalent, shall be completed. Continuation of temporary approval is dependent upon the satisfactory completion of not less than 6 semester or 9 term hours, or equivalent, of required credit toward full approval prior to the beginning of the next school year that the teacher is employed in the same special education area.

(2) Temporary approval shall not be given to teachers of the hearing impaired and the teachers of the speech and language impaired.

R 340.1784 Special education intern teachers; approval.

Rule 84. The department may grant temporary approval to teachers who are currently enrolled in a university intern program approved by the state board of education with special emphasis on an internship experience, which is under the provisions of a university teacher preparation program approved by the state board of education. Special education teachers with full approval and with not less than 3 years of experience in teaching handicapped persons shall be employed to consult with intern teachers at least the equivalent of 1 full school day each week.

R 340.1785 Special education areas to which approvals apply.

Rule 85. R. 340.1782, R 340.1783(1), and R 340.1784 apply to teachers in the specific special education areas of the mentally impaired, emotionally impaired, learning disabled, hearing impaired, visually impaired, physically and otherwise health impaired, inclusive of homebound and hospitalized, preprimary impaired, and speech and language impaired.

R 340.1786 Teachers of the mentally impaired; special requirements.

Rule 86. (1) The teacher education program for teachers of the mentally impaired shall include all of the following:

(a) Four semester hours of directed teaching credit in the field of the mentally impaired, except if it has been recommended that this requirement be waived by the training institution for experienced teachers when approved by the superintendent of public instruction.

(b) Twenty-four semester hours of credit in course work in special education and related subjects distributed as follows:

  (i) A minimum of 2 semester hours of credit for a course in the education of exceptional children.

  (ii) A minimum of 2 semester hours of credit for a course in mental hygiene.

  (iii) A minimum of 4 semester hours of credit for courses in arts and crafts.

  (iv) A minimum total of 8 semester hours of credit for courses including those on the subjects of mental deficiency, problems of instruction and methods of teaching the mentally impaired person, problems of organization and curriculum in teaching the mentally impaired person, education and social control of mentally impaired, or equivalents.

  (v) A minimum additional number of semester hours of credit in general and related courses, which when added to the foregoing required courses, makes an accrued total of 24 semester

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hours of credit. The courses shall be selected from the following subjects or their equivalent:

(A) Mental and exceptional testing.
(B) Guidance and occupational information.
(C) Speech correction.
(D) Mental deficiency.
(E) Delinquency.
(F) Abnormal psychology.
(G) Anatomy.
(H) Social psychology.
(I) Social psychiatry.
(J) Child welfare.
(K) Health education.
(L) Public health nursing.
(M) Social work.
(N) Child psychology.
(O) Child growth and development.
(P) Physical therapy.
(Q) Nursery school education.
(R) Home and family living.

(2) A teacher assigned to a program for severely mentally impaired persons shall either meet certification and full approval requirements for teaching mentally impaired as required in R 340.1782 or shall be employed by an intermediate school district as a supervisor or instructor on the date these rules become effective if the teacher continues in that position and if the employing superintendent of schools, in the request for approval, attests to the successful performance of such teacher or supervisor in such position.

(3) A teacher assigned as a lead teacher of the trainable mentally impaired shall comply with all of the following requirements:

(a) Meet certification and full approval requirements for teaching the mentally impaired, as required in R 340.1782.
(b) Have completed 2 years of successful teaching experience with the trainable mentally impaired.
(c) Be recommended by an administrator who has supervised the teachers professional activities with trainable mentally impaired persons for at least 1 year.
(d) Have demonstrated ability to work cooperatively and creatively with other professional and nonprofessional staff members.

R 340.1787 Teachers of the emotionally impaired; special requirements.

Rule 87. The teacher education program for teachers of the emotionally impaired shall include 30 semester hours in the following areas:

(a) Four to 6 semester hours of child growth and learning theory, including dynamics of human behavior, individual differences, adolescent psychology, learning theory and psychological information, both individual and group.
(b) Four to 6 semester hours of environmental information, including sociological, cultural, economic information; special services and guidance programs in the school and community; organization of the school; characteristics of groups; and social organization and structure.
(c) Six to 10 semester hours of educational and special methods, including education of children with special problems, theory and methods of teaching socially handicapped and emotionally impaired persons, reading methods, instructional materials, and creative and other activities especially adapted to the education of persons with psychological and physiological learning difficulties.

(d) Six to 12 semester hours of special skills and techniques in understanding personality deviaiton, including abnormal psychology, theory of maladjustment, counseling and interview techniques, interpretation of psychological data, and work in parent counseling.

(e) A minimum of 4 semester hours of credit in directed teaching with emotionally impaired persons in addition to the 30 semester hours required for a major.

(f) Six to 10 semester hours in application and experience, including supervised observation, with the emotionally impaired, a practicum in a psychiatric setting, a seminar in interdisciplinary approach, group dynamics, and interpretation of psychiatric techniques.

(g) Two to 4 semester hours in evaluation and research methods.

R 340.1788 Teachers of learning disabled; special requirements.

Rule 88. The teacher education program for teachers of the learning disabled shall include a minimum of 28 semester hours relating to the following areas:

(a) Four semester hours of child growth and learning theory, including dynamics of human behavior, individual differences, adolescent or child psychology, learning theory and psychological information.

(b) Six semester hours of special skills and techniques in understanding learning problems, including development of language as it relates to reasoning, thinking, speaking, reading, writing and spelling; remediation techniques for auditory and visual discrimination problems; development of perceptual skills; and understanding the dynamics of student-teacher relationships, environment, and program planning.

(c) Six semester hours in the development of competence in the following areas:

  (i) Ability to carry out suitable procedures for assessment of the student's listening, thinking, talking, reading, spelling, writing, arithmetic, or other skill deficiencies.

  (ii) Ability to specify in behavioral terms instructional objectives which are appropriate to the skill needs and entry level characteristics of the individual student.

  (iii) Ability to select systems of instruction and learning conditions which are likely to be most effective for ameliorating the learning disabilities presented by each student.

  (iv) Ability to set up and maintain conditions and procedures of instruction suitable to the learning goals set for the individual student.

  (v) Ability to assess instructional outcomes in terms of the student's behavior change and use this data in formulation of an on-going instructional plan adjusted to changed student conditions.

  (vi) Ability to use appropriate techniques with the student to help develop the self-management skills required for constructive social participation and independent learning.

  (vii) Ability to function as a member of interdisciplinary teams and maintain effective liaison with parents and others working with the student.

(d) Four semester hours practicum with learning disabled students.

R 340.1790 Teacher consultants for handicapped persons; approval.

Rule 90. A teacher consultant for special education programs and services shall meet the following requirements for full approval by the state board of education or its designee:

(a) Full approval by the state board of education or its designee as a teacher in 1 or more areas of special education.

(b) A minimum of 3 years of satisfactory teaching experience, including at least 1 year of experience teaching handicapped persons in a special education classroom.

(c) Recommendation to the department, by letter, by the employing superintendent, or his or her

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designee, for approval as a teacher consultant. Evidence of experience and training shall be submitted with the request for approval.

R 340.1791 Curriculum resource consultant; approval.

Rule 91. A curriculum resource consultant employed in a special education program shall meet the following requirements for approval by the state board of education or its designee:

(a) An earned master's degree or its equivalent.

(b) A valid Michigan teacher's certificate.

(c) Full approval as a teacher consultant to the extent that a district could receive state reimbursement for employment in at least 1 of the specific areas in which the consultant will work.

(d) Three years of successful experience in at least 1 of the specific areas of special education.

(e) Completion of 12 semester hours of credit, or equivalent, in an educational program approved by the state board of education which insures competency in the following areas:

  (i) Structure and planning of curriculum.

  (ii) Media.

  (iii) Inservice education.

  (iv) Acquisition, categorization, evaluation, and distribution of materials.

R 340.1792 Licensure, certification, or approval of supportive professional personnel.

Rule 92. Supportive professional personnel employed or contracted with to provide supportive services to handicapped persons, such as social work services and medical and psychological diagnosis, shall be licensed, certificated, or registered by a governmental agency as a condition of practicing their profession, certified by a legally recognized professional board or association as an indication of adequate preparation and training, or recommended by a college or university offering an appropriate training program as approved by the state board of education.

R 340.1793 Paraprofessional personnel; qualifications.

Rule 93. Paraprofessional personnel employed in special education programs shall be qualified pursuant to requirements established by their respective intermediate school district plan. Paraprofessional personnel include, but are not limited to, teacher aides, health care aides, bilingual aides, instructional aides, and program assistants in programs for severely mentally and severely multiply impaired.

R 340.1794 Instructional aides; qualifications.

Rule 94. An instructional aide employed in programs for the severely multiply impaired, the severely mentally impaired and the trainable mentally impaired shall meet either of the following qualifications:

(a) Be a high school graduate, or equivalent, with a minimum of 2 years of successful experience as an aide in a day care training program or a trainable classroom, or equivalent experience, and be recommended by an administrator who has supervised the work of the aide for at least 1 year.

(b) Be a high school graduate, or equivalent, with advance training in a community college or degree-granting institution whose special education instructional aide training program has been approved by the department.

R 340.1795 Teachers of the preprimary age impaired; special requirements; effective date.

Rule 95. (1) A fully approved teacher for preprimary children, in addition to meeting the specific requirements set forth in R 340.1782, shall possess 1 of the following:

(a) A major or minor in early childhood education or child growth and development.

(b) The early childhood endorsement on the teaching certificate (18 semester hours or 24 term hours in a planned program).

(c) The child development associate credential.

(2) Certified staff assigned to programs for preprimary children at the time this rule becomes effective shall have full approval.

(3) This rule shall take effect on September 1, 1981.

R 340.1796 Teachers of the speech and language impaired; special requirements.

Rule 96. (1) A teacher of the speech and language impaired shall meet all of the following requirements:

(a) An earned master's degree in speech and language pathology.

(b) A minimum of 60 semester hours of academic credit in normal aspects of human communication, development thereof, and clinical techniques for evaluation and management of speech and language disorders distributed as follows:

(i) A minimum of 12 semester hours in courses pertaining to normal development of speech, language, and hearing.

(ii) A minimum of 30 semester hours in courses on communication disorders and evaluation and management of speech, language, and hearing disorders. Of these 30 semester hours, 24 hours shall be in speech and language pathology and 6 shall be in audiology. Not more than 6 of the 30 semester hours may be earned for clinical practicum.

(iii) A minimum of 30 semester hours that are acceptable on a graduate level, of which 21 hours shall be within the group specified under paragraph (ii) of this subdivision.

(c) A minimum of 300 clock hours of supervised practicum experience with persons who present a variety of communication disorders, to be acquired in conjunction with academic training, 150 hours of which shall be obtained on the graduate level.

(2) The state board of education or its designee shall approve as a teacher of the speech and language impaired a person employed or approved as a teacher of the speech and language impaired before the effective date of these rules.

(3) A teacher of the speech and language impaired serving the severely language impaired in a classroom program, as defined in R 340.1756, shall be certified at the elementary level.

R 340.1797 Teachers of physical education for handicapped individuals; approval.

Rule 97. A teacher of physical education for handicapped individuals shall posses a valid Michigan teaching certificate with approval in physical education, special education, or both, and shall complete all of the following:

(a) A minimum of 9 semester hours or 12 term hours in special education courses leading to the acquisition of all of the following competencies:

(i) Knowledge of the causes of various handicapping conditions and the effects of those conditions on learning.

(ii) Ability to assess physical education skills of individuals exhibiting various handicapping conditions.

(iii) Knowledge of special education teaching models which employ assessment-prescriptive techniques.

(iv) Ability to use community and staff resources within the special education environment.

(b) A minimum of 9 semester hours or 12 term hours in special physical education courses leading to the acquisition of all of the following competencies:

(i) Ability to write in behavioral terms and assess instructional objectives for physical education for the handicapped.

(ii) Knowledge of motor characteristics, behaviors, and development sequences associated with various handicapping conditions in relationship to normal motor development.

(iii) Knowledge of anatomy, kinesiology, and neurology which pertains to normal and abnormal motor control and sensory motor integration for teaching physical education to severely handicapped and nonambulatory students.

(iv) Ability to adapt teaching methods, materials, and techniques for physical and motor fitness, gymnasium use, fundamental motor skills, aquatic skills, dance, individual and group games, and lifetime sports skills for the needs of the handicapped.

(v) Ability to analyze, adapt, and implement physical education curriculum in providing appropriate programs for a variety of handicapping conditions.

(c) A directed field experience in teaching physical education with handicapped persons in a school setting.

R 340.1798 Teachers of physical education for handicapped individuals; role.

Rule 98. A special education reimbursed teacher of physical education shall provide instruction in physical education to special education students whose disability precludes integration into regular physical education classes. Teachers of physical education for handicapped individuals may provide supportive service to regular physical education teachers who have handicapped students integrated into their programs and to special education classroom teachers who are delivering physical education services.

PART 6. FINANCING

R 340.1801 Source of funds.

Rule 101. Funds for operating and housing special education programs and services operated by intermediate and constituent school districts shall be derived from federal appropriations; general and categorical appropriations in Act No. 94 of the Public Acts of 1979, as amended, being §388.1601 et seq. of the Michigan Compiled Laws, and known as the state school aid act of 1979; local general and specific property taxes, gifts, grants, bequests; and tuition payments from a school district sending handicapped persons to another school district.

R 340.1802 Use of funds.

Rule 102. Funds available to intermediate and constituent school districts, as provided in R 340.1801, may be used for the employment of teachers and other personnel; transportation of handicapped persons; the purchase and maintenance of equipment and supplies; the lease, purchase, construction, renovation or acquisition of vehicles, sites, buildings or portions thereof, and equipment as deemed necessary for staff, programs, and services operated pursuant to the intermediate district plans as approved by the state board of education and other provisions of law.

R 340.1803 Building or purchasing facilities.

Rule 103. When facilities are purchased, constructed, or renovated, with funds acquired through sections 1722 to 1729 of Act No. 451 of the Public Acts of 1976, as amended, being §§380.1722 to R 380.1729 of the Michigan Compiled Laws, for constituent districts, funds shall be used for contractual purposes which provide that the constituent district shall make that facility available for special education programs and services for a period of 25 years. Disbursement of such funds shall be made by the intermediate district board of education pursuant to the intermediate district plan.

R 340.1805 Allowance for room, board, and transportation.

Rule 105. Room, board, and transportation costs for special education programs and services contracted for by the school district of residence shall be paid by that school district pursuant to the intermediate district plan. Parents of persons served shall not be responsible for the cost of room, board, and transportation.

R 340.1806 Local school district contribution.

Rule 106. The contribution to be made by the resident school district, if a basic education program for persons is operated by another party to the contract under the provisions of section 1751 of Act No. 451 of the Public Acts of 1976, as amended, being §380.1751 of the Michigan Compiled Laws, shall be the total cost of the education program for each person minus the gross state aid membership allowance, categorical aid, and the intermediate school district reimbursement for each person.

R 340.1808 Reporting costs.

Rule 108. An intermediate school district establishing a program by contract with local school districts or operating a program under these rules shall submit to the superintendent of public instruction, at the close of the fiscal year, an itemized report of the actual cost of operating the program, including the cost of transportation, on forms provided for that purpose. Reported actual costs for purposes of reimbursement shall include only those which are reasonable and appropriate as determined by the superintendent of public instruction.

R 340.1809 State aid to operating school districts.

Rule 109. The intermediate district and its local districts shall be entitled to receive reimbursement for special education programs and services that are in compliance with these rules and in accordance with the intermediate school district plan as approved by the state board of education and as prescribed in Act No. 94 of the Public Acts of 1979, as amended, being §388.1601 et seq. of the Michigan Compiled Laws and known as the state school aid act of 1979.

R 340.1810 Reimbursement of special education transportation.

Rule 810. Specialized transportation or additional transportation, or both, as required in the individualized education program for a handicapped person to receive a free appropriate public education in the least restrictive educational environment, shall be reimbursable as authorized by Act No. 94 of the Public Acts of 1979, as amended, being §388.1601 et seq. of the Michigan Compiled Laws and known as the state school aid act of 1979.

R 340.1811 Distribution of intermediate millage to constituent districts.

Rule 111. (1) Only those constituent district programs and services under a state board-approved, intermediate school district special education plan and approved for reimbursement by the department shall be eligible for reimbursement from funds generated by adoption of millage under sections 1723 and 1724 of Act No. 451 of the Public Acts of 1976, as amended, being §§380.1723 and 380.1724 of the Michigan Compiled Laws.

(2) Determination of constituent district special education program and service costs shall be based solely upon costs as reported and allowed by the department which are in compliance with these rules. Costs of required transportation shall be included.

(3) All operational reimbursement claims shall be based upon the added cost system. Claims shall be calculated by subtracting from total special education program or service costs all state and federal

reimbursements, including the gross state aid membership allowance and categorical aid. The net unreimbursed costs shall constitute the operational cost claim against intermediate school district special education tax funds.

(4) When intermediate school district special education tax funds are insufficient to reimburse constituent claims in full, a like percentage of the claim shall be paid for support of each program and service to each constituent district. Claims for operation of special education programs and services available to all constituent districts may be reimbursed in full before any prorated payment which may become necessary for other programs and services.

(5) Current intermediate school district special education tax funds need not be used to offset operational claim deficits from prior years.

(6) Amounts may be retained by the intermediate school district for required cash flow purposes not to exceed 1 year's operational expenses for the purpose of maintaining special education programs and services operated by the intermediate school district.

(7) Intermediate school districts desiring to distribute funds in a manner other than as set forth in subrules (2) to (4) of this rule and R 340.1812 shall submit the desired method and the reasons therefor for approval as part of the intermediate school district plan required under section 1711 of Act No. 451 of the Public Acts of 1976, as amended, being §380.1711 of the Michigan Compiled Laws.

R 340.1812 Intermediate school district's use of special education millage.

Rule 112. (1) Costs for the operation of special education programs and services by the intermediate school district, available to all constituent districts, may be reimbursed in full before the reimbursement of local districts from funds generated by adoption of millage under sections 1723 and 1724 of Act No. 451 of the Public Acts of 1976, as amended, being §§380.1723 and 380.1724 of the Michigan Compiled Laws.

(2) When intermediate school district special education personnel offer direct services to handicapped persons in some but not all constituent districts, and when prorated payment of constituent district operational claims is necessary, the per capita deficit for each student served shall be paid by the district of residence or a direct charge shall be made to the local district based on the amount of deficit and the proportion of time the local district received the service from the intermediate district.

PART 7. DEVELOPMENT AND SUBMISSION OF INTERMEDIATE SCHOOL DISTRICTS' PLANS

R 340.1831 Plan and modification submission.

Rule 131. (1) On or before July 1 of each year, each intermediate school district board shall submit to the state board of education or its designee a plan to become effective on July 1 of the following year and to remain in effect through June 30 of the next year.

(2) Any intervening modification by the intermediate school district plan shall be directed to each local school district superintendent and chairperson of the parent advisory committee within 7 calendar days of the intermediate school district board approval of this modification.

R 340.1832 Content areas.

Rule 132. An intermediate school district plan for the delivery of special education programs and services, or any modification thereof, shall be an operational plan and shall set forth those special education programs and services to be delivered during the school year for which the plan was written. The plan may also include any long-range plans for delivery of special education programs and services in future years. The plan shall comply with Act No. 451 of the Public Acts of 1976, as amended, being §380.1 et seq. of the Michigan Compiled Laws, and these rules, and shall comply with the following format and include, at a minimum, the following content areas:

INTERMEDIATE SCHOOL DISTRICT PLANS

Part 1. Comprehensive special education programs and services.

Section 1.1. Procedural safeguards.

Describe any procedural safeguards required by the intermediate school district that are necessary to accomplish the following:

(1) Insure confidentiality of personally identifiable information.

(2) Provide parent notice and secure written consent before preplacement evaluation or placement of a handicapped student.

(3) Advise and inform handicapped persons, their parents, and other members of the community of the special education opportunities required under the law; the obligations of the local and intermediate school district; and the title, address, and telephone number of representatives of both the local and intermediate school districts who can provide information about the special education opportunities.

(4) Inform parents of their right to obtain an independent educational evaluation and due process hearing.

(5) Advise parents of the complaint process.

Section 1.2. Public awareness.

Describe activities and outreach methods which are used to insure that all citizens are aware of the availability of special education programs and services.

Section 1.3. Referral system.

Describe any procedures required by the intermediate school district for processing and reporting referrals for persons up to 25 years of age who are known to be, or suspected of being, handicapped.

Section 1.4. Diagnostic services.

Describe the type and amount of diagnostic services that are directly operated within the intermediate school district and those purchased or contracted for from outside the intermediate school district.

Section 1.5. Individualized educational planning committee procedure.

(1) Describe the procedure for registering eligible students with the intermediate central registry.

(2) Describe any procedures required by the intermediate school district for both of the following:

  (a) Determining student eligibility, programs, and placement of handicapped students.

  (b) Conducting and administering the individualized educational planning committee meeting.

Section 1.6. Continuum of special education programs and services.

(1) Describe the special education basic programs and supportive services, including vocational training programs designed to meet the educational needs of handicapped persons.

(2) Describe any additional programs or services, including summer school programs, work activity centers, specialized programs, nursing homes, state hospitals, and mental health and child care facilities.

(3) List the constituent districts that have been approved to graduate handicapped persons who are so impaired that they cannot complete the regular education program.

Section 1.7. Community integration and follow-up.

(1) Describe the procedure used to assure integration of each handicapped person into the school and the community environment.

(2) Describe the means by which the local school district and the intermediate school district shall determine the effectiveness of special education programs and services and the educational plan for each handicapped person. The follow-up system shall include a procedure for determining the school-community adjustments of handicapped persons for at least 1 year following termination of their special education programs and services.

Part 2. Management of special education programs and services.

Section 2.1. Administration of programs and services.

(1) Identify the district administrator who is responsible for the implementation of special education

programs and services.

(2) Describe any administrative procedure required by the intermediate school district for requesting deviations, processing objections to the intermediate school district plan, and investigating complaints.

Section 2.2. Qualified personnel.

(1) Estimate the type of professional and paraprofessional personnel needed to provide the special education programs and services described in section 1.6.

(2) Describe the procedures required by the intermediate school district for determining the professional development needs of special education and general education staff and the plans for meeting these needs.

Section 2.3. Facilities and transportation.

Describe the type of facilities and the transportation necessary to provide the special education programs and services described in section 1.6.

Section 2.4. Instructional content.

(1) Describe procedures to be used by the intermediate district for approval of instructional content of special education programs and services.

(2) The instructional content shall, at a minimum, include personal adjustment, prevocational and vocational training, and physical education.

Section 2.5. Monitoring and evaluation.

Describe the method, timetable, and criteria for monitoring and evaluating state institutions and public school special education programs and services within the intermediate district.

Section 2.6. Federal funds.

Describe for each anticipated grant or entitlement of federal monies the amount and source of the funds, the anticipated manner in which it shall be utilized, and the process of how such funds shall be distributed to, or on behalf of, local school districts. Such description shall specifically include why the distribution planned is deemed to be equitable and representative of the respective population of handicapped students in each of the local districts.

Part 3. Parent advisory committee.

Section 3.1. Organizational structure of the parent advisory committee.

Describe the organizational structure of the committee, including officers and their responsibilities, meeting times, notice thereof, voting procedures, terms of office, and related matters.

Section 3.2. Role and responsibility of the parent advisory committee.

(1) Describe the role and responsibility of the committee, including how it shall participate in the cooperative development of the plan, formulate objectives thereto, if any, and related matters, such as the role and responsibility of the parent advisory committee in evaluating special education programs and services within the intermediate district.

(2) Describe the role and relationship of administrative and other school personnel, as well as representatives of other agencies, in assisting the committee in its responsibilities.

Section 3.3. Administrative support of the parent advisory committee.

Describe the fiscal and staff resources that shall be secured or allocated to the committee by the intermediate school district to make it efficient and effective in operation.

R 340.1833 Cooperative development and review.

Rule 133. (1) Intermediate school district plans, or any modification thereof, shall be developed in cooperation with local school districts and the parent advisory committee.

(2) All plans shall be reviewed with the representatives of each local school district and the parent advisory committee, in whole or in part, at least quarterly each fiscal year.

R 340.1834 Joint plans.

Rule 134. Two or more intermediate school districts lying within an educational planning area as designated by the state board of education may submit a plan for the delivery of special education programs and services upon approval by the state board of education.

R 340.1835 Plan signatures.

Rule 135. Each intermediate school district plan, or modification thereof, shall be signed by all of the following:

(a) The intermediate school district superintendent, signifying approval by the intermediate school district board.

(b) The superintendent of each constituent school district, signifying district involvement in the development of the plan.

(c) The chairperson of the parent advisory committee, signifying committee involvement in the development of the plan.

R 340.1836 Objections to plan; procedures.

Rule 136. (1) At the time the intermediate school district plan, or modification thereof, is submitted to the state board of education or its designee, any constituent local school district or the parent advisory committee may file objections to the plan in whole or in part within 20 calendar days of receipt of a copy of the plan pursuant to R 340.1831. Copies of the objections to the plan shall be directed by the intermediate board of education to all constituent local school districts and the parent advisory committee by certified mail, return receipt requested.

(2) Objections filed shall note the specific portions of the plan objected to, contain a specific statement of the reasons for objection, and may propose alternative provisions. Objections may also contain allegations pertaining to specific procedural irregularities only if those irregularities have had an alleged adverse effect upon the formulation of the plan, or a modification thereof, which is otherwise being objected to. If such procedural irregularity is found to exist, the department shall handle that portion of the matter as provided in R 340.1851 and any further review of those portions of the plan found to have been adversely affected shall be held in abeyance pending disposition of the procedural problem.

(3) The intermediate school district, a constituent local school district, or the parent advisory committee may file with the department an answer or response to the objections on or before 20 calendar days from the date of receipt of the objections.

(4) The intermediate school district or the objecting party shall have 7 calendar days from the date of receipt of the objections to direct to the department a written request for a hearing concerning the objections. If no request for hearing is made, the state board of education may rule upon the plan based upon the objections and any answers or responses filed thereto. If a hearing is requested, a hearing officer designated by the department of education shall promptly give reasonable notice of the hearing and shall begin the hearing not later than 30 calendar days from the date the request was filed with the department. The hearing may be adjourned upon written stipulation of the intermediate school district and the objecting party.

(5) Within 15 calendar days after the closing of the hearing, the hearing officer shall make findings of fact and conclusions of law and shall recommend to the state board of education whether the plan should be approved as submitted, approved with such other modifications as deemed appropriate by the hearing officer, or the objections granted as submitted. Such findings and recommendations shall be immediately served upon the department and all parties answering or responding to the objections. Any party may file written exceptions to such findings and recommendations with the state board of education within 20 calendar days of receipt of the findings and recommendations and direct copiesof the exceptions to all other parties and the department. Oral argument regarding such exceptions may be permitted with the consent of the state board of education. The findings and recommendations of the hearing officer, including any exceptions, shall be submitted to the state board of education with the plan. The state board of education

shall render a final decision within 30 calendar days from the date the exceptions were to be filed.

R 340.1837 Approval of plans.

Rule 137. (1) Intermediate school district plans, or modification thereof, shall be approved by the state board of education after the determination of any objections pursuant to R 340.1836, if such plans are in compliance with all of the following:

(a) The state plan for the delivery of special education programs and services.

(b) The provisions of sections 1701 to 1766 of Act No. 451 of the Public Acts of 1976, as amended, being §§380.1701 to 380.1766 of the Michigan Compiled Laws.

(c) Michigan rules promulgated to implement statutory provisions for special education programs and services.

(d) Federal rules promulgated to implement statutory provisions for handicapped persons.

(2) Intermediate boards of education, constituent local school boards, and the parent advisory committee shall be advised by the state board of education or its designee as to whether the plan was approved on or before February 1 of the year in which the plan is to commence. Notification of disapproval of a plan, or modification thereof, shall state the reasons therefore and shall specify the action to be taken by the intermediate board of education, if any, and the date the plan is to be resubmitted.

R 340.1838 Parent advisory committee.

Rule 138. (1) A parent advisory committee shall be appointed by each intermediate school district board.

(a) The committee shall consist only of parents of handicapped persons with at least 1 parent from each constituent local school district.

(b) Each constituent local board of education shall nominate at least 1 parent.

(c) The intermediate school district board of education may nominate additional members not to exceed 33 1/3% of the total parent advisory committee membership.

(2) The intermediate board of education shall make every attempt to assure that all types of impairments and all identifiable organizations of parents of handicapped persons within the intermediate school district are represented on the committee.

(3) The parent advisory committee shall have those responsibilities set forth in part 3 of the intermediate school district plan and shall participate in the development of the district's plan for the delivery of special education programs and services as required by R 340.1833.

PART 8. COMPLAINTS

R 340.1851 Intermediate school district's responsibility for processing complaints.

Rule 151. (1) An intermediate school district, upon receipt of a complaint, shall send a copy of part 8 of these rules to the person making an allegation and shall proceed to immediately investigate each allegation. The investigation shall be completed by the interemdiate school district within 10 school days, but not more than 21 calendar days, after the date of receipt of the complaint. In addition to direct communication with the complainant, the investigation shall include a written report of its findings of fact and conclusions relative to the validity of the allegations, and the status relative to the existence of a violation. This report shall be sent to all involved parties. Involved parties include the person making the allegation, the intermediate school district in which the alleged violation occurred, the agency alleged to have committed the violation, and the department.

(2) If the intermediate school district investigation concludes that the complaint is valid, then the investigation report shall contain all of the following:

(a) Findings and conclusions drawn with respect to each allegation contained in the complaint.

(b) A statement identifying the specific violation or violations and citing the appropriate statute, rule, regulation, or section of the intermediate school district plan being violated.

(c) A statement that identifies the agency or agencies responsible for the violation or violations.

(d) Corrective action recommended to be taken and a time line for expected completion of any recommended action.

(e) A statement specifying that the agency or agencies in violation shall, within 10 calendar days of receipt of the report, file with the department of education a statement of their position and intended action relative to the violation or violations and the recommended correction. The statement shall be known as the agency's position statement. Copies shall be sent to all involved parties.

(3) If the intermediate school district's investigation report concludes that the complaint is not valid, then the investigation report shall contain findings and conclusions drawn with respect to each allegation contained in the complaint with copies being sent to all involved parties, including the department of education. The report shall inform the person making the allegation that the person has a right to contest this decision pursuant to R 340.1852.

(4) During the complaint process, a hearing may be requested, if appropriate, pursuant to the provisions of part 2 of these rules. The complaint and hearing shall be considered as 2 separate actions. If appropriate conclusions pertinent to the complaint process are dependent upon the outcome of the hearing, the complaint process shall be held in abeyance until such evidence is available. The period of abeyance shall not exceed that time for processing a hearing as defined in R 340.1725b and shall not be counted against the 21-day period allotted under subrule (1) of this rule.

(5) An intermediate school district receiving a complaint under its jurisdiction shall, during the pendency of any proceeding stipulated in this rule, require any agency against which the complaint was lodged to maintain the educational status, program placement, or service of an involved student as it was before the complaint, if in its judgement not doing so may constitute a violation of the student's due process protection.

R 340.1852 Department responsibilities for processing complaints.

Rule 152. (1) The department may, on its initiative and at any time consistent with the stipulated limitations in R 340.1851(4), proceed to investigate and handle a complaint pursuant to this rule, regardless of the status of the investigation under R 340.1851.

(2) If the intermediate school district has not acted on a complaint pursuant to R 340.1853 or R 340.1851 the department may, on its own initiative, or shall, at the request of the complainant, investigate the complaint and file a written report of its findings with all involved parties within 30 calendar days by certified mail, return receipt requested.

(3) If the intermediate school district report finds the complaint to be valid, then within 14 calendar days of the date of department receipt of the report and the agency's position statement, or with 14 calendar days of the last date for filing same, the department shall communicate its findings in the case to all involved parties and shall direct the agency in violation to take specified corrective action and to file proof of compliance within 30 calendar days of receipt of the directive.

(4) If the intermediate school district report finds the complaint to be invalid, the department shall communicate this intermediate school district finding to the complainant and assure that the complainant has had the right to contest the finding of no violation.

(5) Upon receipt of an appropriate request for a state investigation of a complaint, the department shall do both of the following:

(a) Undertake such investigatory action as is necessary to make a determination in the case.

(b) Within 30 calendar days of the date of receipt of the request, file a written report of its findings with all involved parties.

(6) If the state investigation finds the complaint to be valid, the department shall direct the agency in violation to take specified corrective action and to submit acceptable proof of compliance within 30 calendar days of the date of receipt of the directive. Such proof, if acceptable, shall be communicated to all involved

parties.

(7) Proof of compliance shall be submitted by the administrator primarily in charge of special education programs and services for the agency, the chief administrative officer of the agency, and the president of the board of education if the agency is a school district. The proof of compliance shall specifically set forth those facts evidencing that the actions directed by the department have been taken.

(8) Upon failure of the agency in violation to submit the required proof of compliance, failure to take the required action, or if deemed appropriate by the state board of education, the state board of education shall do 1 or more of the following:

(a) If the agency in violation is a local school district, it shall direct the intermediate school board to provide complying programs and services as stipulated in section 1702 of Act No. 451 of the Public Acts of 1976, as amended, being §380.1702 of the Michigan Compiled Laws.

(b) If the agency in violation is an intermediate school board, the state board of education may withdraw the authority of the intermediate district to operate a program in noncompliance and simultaneously require the local district of residence to place the affected student or students in an appropriate program.

(c) Withhold federal funds pursuant to the provisions of §614(b) of the education of all handicapped children act of 1975, 20 U.S.C. §1414(b).

(d) Apply such other penalties, as stipulated in Act No. 451 of the Public Acts of 1976, as amended, being §380.1 et seq. of the Michigan Compiled Laws, or any other governing statute, that are deemed appropriate by the state board of education.

(9) All governmental bodies shall cooperate with the state board of education or its designee in the conduct of its investigation.

(10) The state board of education or its designee, during the pendency of any proceeding stipulated under R 340.1853, R 340.1851, and this rule shall require any agency against which the complaint was lodged to maintain the educational status, program placement, or service of an involved student as it was before the complaint, if, in the judgement of the state board of education or its designee, not doing so constitutes a violation of the student's due process protections.

R 340.1853 Responsibilities for processing complaints and investigations generally.

Rule 153. (1) All public education agencies shall receive allegations of violations of state or federal regulations set forth in R 340.1701(g). If such allegations are given in oral form, the receipient agency may proceed to take such formal or informal action to resolve the situation as it sees fit, but, at a minimum, shall immediately do all of the following:

(a) Inform the person making an allegation that he or she has a right to file a written complaint which shall meet the standards of a complaint as defined in R 340.1701(g) and, having done so, has a right to expect a formal investigation of his or her complaint pursuant to R 340.1851.

(b) Inform the person making an allegation that if he or she formally requests and receives an investigation of his or her complaint under R 340.1851 and finds that he or she disagrees with the conclusion of no violation, he or she may request a state investigation of his or her complaint.

(c) Assist, as necessary, the person making the allegation by directing the person's allegation to the appropriate agency or by formulating a complaint that meets the standards of R 340.1701(g).

(2) A complaint, as defined in R 340.1701(g), shall be filed with the intermediate school district in which the alleged violation occurred. If any such complaint is filed with a local school district, the department, or other agencies, it shall be immediately forwarded to the appropriate intermediate school district.

R 340.1854 Availability of rules relative to complaints.

Rule 154. Copies of part 8 of these rules shall be made available by the intermediate school district for distribution to its employees, the employees of constituent local school districts, the public, and other agencies operating special education programs and services.

PART 9. RECORDS AND CONFIDENTIALITY

R 340.1861 Records; maintenance; content; transfer of records; release of records.

Rule 161. (1) Records shall be maintained by intermediate school districts pursuant to the provisions of section 1711 of Act No. 451 of the Public Acts of 1976, as amended, being §380.1711 of the Michigan Compiled Laws, for all handicapped persons up to 25 years of age, as defined by R 340.1703 to R 340.1714, including those persons placed in state and privately operated facilities.

(2) Each record for the handicapped person shall include, at a minimum, all of the following:

(a) The name, date of birth, sex, and racial or ethnic group.

(b) Type of handicap or handicaps.

(c) Date of referral.

(d) Services being rendered.

(e) Date special education programs or services were initiated and terminated.

(f) The name, address, and telephone number of the parent.

(g) District of residence.

Each record may include attendance, classes and grades attended, and grade level completed.

(3) When the residency of a handicapped person changes from one intermediate school district to another, the intermediate school district of previous residence shall transfer the records maintained under this rule to the new intermediate school district upon written request of the intermediate school district of residency and the parent of the handicapped person for whom the record was maintained.

(4) An intermediate school district shall request written consent of the parent of each handicapped person, presently or hereinafter on its records, before providing any agency or entity approved by the state board of education with information on record with the district under subrule (2) of this rule. If consent is not obtained, the district shall release the requested information to the agency or entity approved by the state board of education, except for the name of the handicapped person and the name, address, and telephone number of the parent.

R 340.1862 Access rights.

Rule 162. (1) Each participating agency shall permit parents to inspect and review any education records relating to their children which are collected, maintained, or used by the agency under this part. The agency shall comply with a request without unnecessary delay and within 45 calendar days after the request is made. Parents requesting records for use at an individualized educational planning committee meeting, a hearing, or an appeal shall be given access to their requested records immediately.

(2) The right to inspect and review education records under this rule includes all of the following:

(a) The right to a response from the participating agency to reasonable requests for explanations and interpretations of the records.

(b) The right to request that the agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records.

(c) The right to have a representative of the parent inspect and review the records.

R 340.1863 Record of access.

Rule 163. Each participating agency shall keep a record of parties obtaining access to education records collected, maintained, or used under this part, except for access obtained by parents and authorized employees of the participating agency. Records of access shall include the name of the party, the date access is given, and the purpose for which the party is authorized to use the records.

R 340.1864 Records on more than 1 person.

Rule 164. If any education record includes information on more than 1 person, the parent of each person shall have the right to inspect and review only the information relating to their child or to be informed of that specific information.

R 340.1865 List of types and locations of education records.

Rule 165. Each participating agency shall provide parents, upon request, with a list of the types and locations of education records collected, maintained, and used by the agency.

R 340.1866 Fees.

Rule 166. (1) A participating education agency may charge a fee for copies of records made for the parents under this part if the fee does not effectively prevent the parents from exercising their right to inspect and review those records.

(2) A participating agency shall not charge a fee to search for or retrieve information under this part.

R 340.1867 Amendment of records at parent's request.

Rule 167. (1) A parent who believes that information in education records collected, maintained, or used under this part is inaccurate or misleading or violates the privacy or other rights of the handicapped or suspected handicapped person may request the participating agency that maintains the information to amend the information.

(2) The agency shall decide whether to amend the information pursuant to the request within a reasonable period of time from receipt of the request.

(3) If the agency decides to refuse to amend the information pursuant to the request, it shall inform the parent of the refusal and advise the parent of the right to a hearing under R 340.1868.

R 340.1868 Opportunity for a hearing to challenge record information.

Rule 168. The agency shall, on request, provide an opportunity for a hearing to challenge information in education records to insure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the students.

R 340.1869 Hearing procedures.

Rule 169. The hearing required to be held by R 340.1868 shall, at a minimum, be conducted according to the following procedures:

(a) The hearing shall be held within a reasonable period of time after the educational agency or institution has received the request, and the parent of the person or the eligible person shall be given notice of the date, place, and time reasonably in advance of the hearing.

(b) The hearing may be conducted by any party, including an official of the educational agency or institution, who does not have a direct interest in the outcome of the hearing.

(c) The parent of the person or the eligible person shall be afforded a full and fair opportunity to present evidence relevant to the issues raised under R 340.1868 and may be assisted or represented by individuals of his or her choice at his or her own expense, including an attorney.

(d) The educational agency or institution shall make its decision in writing within a reasonable period of time after the conclusion of the hearing.

(e) The decision of the agency or institution shall be based solely upon the evidence presented at the hearing and shall include a summary of the evidence and the reasons for the decision.

R 340.1870 Hearing resulting in finding of violation; finding of no violation.

Rule 170. (1) If, as a result of the hearing, the agency decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the person, the agency shall amend the information accordingly and shall inform the parent in writing of the amendment.

(2) If, as a result of the hearing, the agency decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the person, it shall inform the parent of the right to place a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the agency in the records the agency maintains on the person.

(3) Any explanation placed in the records of the person under this rule shall be maintained by the agency as part of the records of the person as long as the record or contested portion is maintained by the agency. If the records of the person or the contested portion is disclosed by the agency to any party, the explanation shall also be disclosed to the party.

R 340.1871 Parental consent for disclosure of personally identifiable information.

Rule 171. (1) Parental consent shall be obtained before personally identifiable information is disclosed to anyone other than officials of participating agencies collecting or using the information under this part or before being used for any other purpose other than meeting a requirement of this part.

(2) Parental consent shall not be required for disclosure of personally identifiable information from the education records of a student if the disclosure meets the requirements of 45 C.F.R. §99.31.

R 340.1872 Confidentiality safeguards.

Rule 172. (1) Each participating agency shall protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.

(2) One official at each participating agency shall assume responsibility for insuring the confidentiality of any personally identifiable information.

(3) All persons collecting or using personally indentifiable information shall receive training or instruction regarding the procedures required in collecting or using this materials.

(4) Each participating agency shall maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.

R 340.1873 Destruction of information.

Rule 173. (1) The public agency shall inform parents when personally identifiable information collected, maintained, or used under this part is no longer needed to provide educational services to the student.

(2) The information shall be destroyed at the request of the parents. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed shall be maintained without time limitation.

(3) Each handicapped person's individualized education program shall be kept on file for a minimum of 3 years and shall be subject to all rules under this part.

EMERGENCY RULES

September 10, 1981

EMERGENCY RULES THAT EFFECT SPECIAL EDUCATION

This section of the supplement contains three sets of emergency rules. The emergency rules for transportation took effect on July 1, 1981. The emergency rules allowing the six year age span in elementary buildings took effect August 24, 1981, as did the emergency rules for increasing the teacher's class load at the secondary level. The preprimary emergency rules took effect September 2, 1981.

The emergency rules remain in effect for six months pursuant to Section 48 of the Administrative Procedures Act. This reference is found on page 9 of the section entitled "Administrative Procedures Act" which is in your manual.

Future supplements for this manual will alert you to any changes made in the status of these rules. In the interim, I suggest that you asterik the following special education rules in your manual (see tab for "Administrative Rules for Special Education") so as to alert you to the temporary rule changes. The rules include R340.1701, .1711, .1733(d), .1740-.1744, .1747, .1754, .1755 & .1795.

DEPARTMENT OF EDUCATION

STATE BAORD OF EDUCATION

SPECIAL EDUCATION

EMERGENCY RULES

Filed with the Secretary of State on
These rules take effect upon filing with the Secretary of State

(By authority conferred on the state board of education by sections 1701 and 1703 of Act No. 451 of the Public Acts of 1976, as amended, and section 48 of Act No. 306 of the Public Acts of 1969, as amended, being §§380.1701, 380.1703, and 24.248 of the Michigan Compiled Laws)

R 340.1733, R 340.1740, R 340.1741, R 340.1742, R 340.1743, R 340.1744, and R 340.1747 of the Michigan Administrative Code, appearing on pages 62, 64, 65, and 66 of Quarterly Supplement No. 3 to the 1979 Michigan Administrative Code, are amended to read as hereinafter set forth.

FINDING OF EMERGENCY

These rules are promulgated by the State Board of Education for the purpose of implementing section 40 of Act No. 373 of the Public Acts of 1980. The Department amended the following administrative rules to effect cost savings in programming, services, and administration for school districts and the Department. These rules respond to current fiscal conditions by modifying certain functions and thus permitting school districts to make necessary program adjustments.

The State Board of Education is authorized to administer these rules and finds that the public health, safety and welfare requires promulgation of these rules as emergency rules without following the notice and participation procedures required by sections 41 and 42 of Act No. 306 of the Public Acts of 1969, as amended.

PART 3. ADMINISTRATION OF PROGRAMS AND SERVICES

R 340.1733 Program and service requirements.

Rule 33. An intermediate school district, local district and any other agency shall adhere to the following general requirements for all programs and services for handicapped persons:

(a) Special education classrooms shall have at least the same average number of square feet per student as regular classrooms in the school district.

(b) Special education classrooms shall be located in schools housing regular education pupils of comparable age and grade level. Each handicapped person shall be assigned to educational programs and services housed in buildings that allow handicapped persons to participate fully in regular and special education programs, services, or extracurricular activities. Nothing in these rules shall prohibit special education programs, such as specialized vocational training or programs for more severely involved impairments areas, to be housed in places other than the schools with regular education programs, if such programs are set forth in the intermediate school district plan and are approved by the state board of education.

July 7, 1981

(c) Teachers providing instructional services and special education ancillary personnel shall have space designated on a scheduled basis in each building to afford individual and small group work.

(d) Special education classrooms with children under 16 years of age shall not exceed a 4-year age span at any one time, except ~~for the severely mentally impaired, the trainable mentally impaired, or the severely multiply impaired~~ AS FOLLOWS:

(I) PROGRAMS OPERATED AT THE ELEMENTARY LEVEL SHALL NOT EXCEED A 6-YEAR AGE SPAN AND SHALL NOT EXCEED THE AGE SPAN FOR REGULAR STUDENTS IN THE SAME ELEMENTARY BUILDING.

(II) PROGRAMS FOR THE TRAINABLE MENTALLY IMPAIRED, SEVERELY MENTALLY IMPAIRED, AND SEVERELY MULTIPLY IMPAIRED SHALL NOT BE LIMITED TO ANY AGE RANGE.

(e) Performance objectives based on the annual goals and objectives in the individualized education program shall comply with all of the following:

(i) Be written by special education personnel for persons assigned to a special education program or service.

(ii) Be developed in accordance with the student's needs in the cognitive, affective, and psychomotor domains with special attention to personal adjustment, prevocational, physical education, and vocational training.

(iii) Be developed and carried out cooperatively by regular and special educators for those areas of instruction under the direct supervision of special education personnel when a handicapped student is assigned to the regular education curriculum.

(iv) Be developed by ancillary service personnel relative to the service they provide.

(v) Be available to the parent and may be reviewed by the department or its designee.

(f) The special education programs' and services' methods of instruction shall be consistent with the performance objectives written for each handicapped person.

(g) The instructional program for a school day shall focus on the individual needs of each handicapped person, as determined through the individualized education programs.

(h) Special education programs and services shall be provided for at least the minimum number of hours and days of teacher-pupil contact in conformance with the child accounting rules, being R 340.1 to R 340.13, but the number of hours and days for a special education program or service shall be not less than those required for regular education programs.

(i) Handicapped persons qualifying for special education programs and services shall be provided with supplies and equipment at least equal to those provided to other students in regular education programs, in addition to, those supplies and equipment necessary to meet their defined performance objectives.

(j) Physical therapy service shall be provided to a handicapped person if prescribed by an appropriate medical authority and recommended by the individualized educational planning committee as an essential component of the educational program.

(k) Physical education services, specially designed if necessary, shall be made available to every handicapped student. Each handicapped student shall be afforded the opportunity to participate in the regular physical education program available to nonhandicapped students, unless the student is enrolled full time in a separate facility or needs specially designed physical education as prescribed in the student's individualized education program.

(l) The expense of additional diagnostic services recommended by the individualized educational planning committee and required by the school district, including neurological, medical, psychiatric, and other professional services not provided by the school district or other public agencies nor covered by medical insurance, shall be borne by the handicapped person's district of residence.

(m) Intermediate school districts or local districts may operate or contract for vocational evaluation services, work activity center services, and ancillary services.

(n) Intermediate school districts or local districts, or a combination of such districts, may provide for work study services and, with approval of the state board of education, may assign special education personnel to the supervision of work study services. A written work study plan, signed by the parent, school, and employer, shall set forth the educational goals, job activities, related subjects, standards of attainment, time and duration of the program, and wages to be paid to the handicapped person. The superintendent of the district shall designate a staff member to visit the person and the person's supervisor at the job site at least once every 20 school days to check attendance, evaluate the handicapped person's progress, and evaluate the placement in terms of the health, safety, and welfare of the handicapped person. Where provided, these services shall be available to the handicapped persons, regardless of their disability, if either of the following conditions is met:

(i) Prerequisite personal adjustment training, prevocational education, and vocational training have been provided.

(ii) Eligibility for special education programs and services shall cease within 1 additional school year.

(o) Personnel development shall be conducted pursuant to findings of an annual needs assessment. The training shall be made available to both special and regular education personnel. The persons providing training, which may be district, university or agency, teacher center, or state department based, may include handicapped persons and parents of handicapped persons, as well as special and regular education personnel. The training programs to be delivered shall include all of the following, if appropriate:

(i) Requirements and procedures of state and federal mandatory education acts.

(ii) Placement and education of the handicapped person in the regular education curriculum, including the various aids and supportive services related thereto.

(iii) Affective education involving the importance of interaction with handicapped persons on a peer level.

R 340.1740 Educable mentally impaired programs.

Rule 40. With respect to programs for the educable mentally impaired, not more than 15 students shall be in the classroom at any one time, and the teacher shall have responsibility for the educational programming for not more than 18 different students, EXCEPT AT THE SECONDARY LEVEL WHERE THE TEACHER SHALL HAVE RESPONSIBILITY FOR THE EDUCATIONAL PROGRAMMING FOR NOT MORE THAN 25 DIFFERENT STUDENTS.

R 340.1741 Emotionally impaired programs.

Rule 41. Programs for the emotionally impaired shall have not more than 10 students in the classroom at any one time, and the teacher shall have responsibility for educational programming for not more than 15 different students, EXCEPT AT THE SECONDARY LEVEL WHERE THE TEACHER SHALL HAVE RESPONSIBILITY FOR EDUCATIONAL PROGRAMMING FOR NOT MORE THAN 25 DIFFERENT STUDENTS.

R 340.1742 Hearing impaired programs.

Rule 42. (1) Specific requirements for programs and services for hearing impaired persons are as follows:

(a) A special class with 1 teacher shall have ~~an-enrollment-of~~ not more than 7 students, EXCEPT AT THE SECONDARY LEVEL, WHERE THE TEACHER SHALL HAVE NOT MORE THAN 15 STUDENTS AND SHALL SERVE NOT MORE THAN 7 AT ANY ONE TIME.

(b) Group hearing aids deemed necessary for instruction by the individualized educational planning committee shall be provided. The public agency shall insure that the amplification devices worn by hearing impaired children in school are functioning properly.

(c) Communication skills and language shall be emphasized as an integral part of the curriculum.

(2) The Michigan school for the deaf shall be considered a part of the total continuum of services for hearing impaired persons. The following procedures are necessary for admission:

(a) A request for assignment to the Michigan school for the deaf shall be submitted by the intermediate school district superintendent or designee to the superintendent of the Michigan school for the deaf.

(b) Before application, the person shall have been identified by the referring school district as hearing impaired pursuant to R 340.1707.

(3) The agency initiating an assignment into or out of the Michigan school for the deaf shall be responsible for establishing the individualized educational planning committee. Representatives of the local school district and the intermediate school district of residence and the Michigan school for the deaf shall be invited to participate in the individualized educational planning committee meeting.

R 340.1743 Visually impaired programs.

Rule 43. (1) Specific requirements for programs and services for the visually impaired are as follows:

(a) Class size shall be determined by the severity and multiplicity of the impairments of the visually impaired students. A special class with 1 teacher shall have ~~an-enrollment-of~~ not MORE THAN ~~the-equivalent-of~~ 8 ~~full-time~~ students IN THE CLASSROOM AT ANY ONE TIME, and the teacher shall have responsibility for the educational programming for not more than 10 different students, EXCEPT AT THE SECONDARY LEVEL, WHERE THE TEACHER SHALL HAVE NOT MORE THAN 8 STUDENTS IN THE CLASSROOM AT ANY ONE TIME AND SHALL HAVE RESPONSIBILITY FOR THE EDUCATIONAL PROGRAMMING FOR NOT MORE THAN 15 DIFFERENT STUDENTS.

(b) The curriculum shall include instruction in orientation and mobility, assistance in early development of comprehensive communication skills, personal adjustment education, and prevocational and vocational experience.

(c) An agency operating special education programs and services for the visually impaired may also operate a program of transcription of education materials into braille pursuant to R 388.261 to R 388.265 of the Michigan Administrative Code.

(2) The Michigan school for the blind shall be considered a part of the total continuum of services for visually impaired persons. The following procedures are necessary for admission:

(a) A request for assignment to the Michigan school for the blind shall be submitted by the intermediate school district superintendent, or his or her designee, to the superintendent of the Michigan school for the blind.

(b) Before application, the person shall have been identified by the referring school district as visually impaired pursuant to R 340.1708.

(3) The agency initiating an assignment into or out of the Michigan school for the blind shall be responsible for establishing the individualized educational planning committee. Representatives of the local school district, the intermediate school district of residence, and the Michigan school for the blind shall be invited to participate in the individualized educational planning committee meeting.

R 340.1744 Physically or otherwise health impaired programs.

Rule 44. Specific requirements for programs for the physically or otherwise health impaired are as follows:

(a) The class size shall be not more than ~~the-equivalent-of~~ 15 ~~full-time~~ students ~~per-teacher~~ IN A CLASSROOM AT ANY ONE TIME, AND A TEACHER SHALL HAVE RESPONSIBILITY FOR NOT MORE THAN 25 DIFFERENT STUDENTS.

(b) Special classroom units serving physically or otherwise health impaired shall provide not less than 60 square feet of floor space per person.

(c) Health care aides may be employed to serve in a supportive capacity to the nurse, physical therapist, or occupational therapist.

R 340.1747 Specific learning disabilities program.

Rule 47. A special education program serving learning disabled students shall have not more than 10 students in the classroom at any one time, and the teacher shall have responsibility for educational programming for not more than 15 different students, EXCEPT AT THE SECONDARY LEVEL, WHERE THE TEACHER SHALL HAVE RESPONSIBILITY FOR EDUCATIONAL PROGRAMMING FOR NOT MORE THAN 25 DIFFERENT STUDENTS.

DEPARTMENT OF EDUCATION

STATE BOARD OF EDUCATION

TRANSPORTATION OF HANDICAPPED PERSONS

EMERGENCY RULES

Filed with the Secretary of State on
These rules take effect upon filing with the Secretary of State

(By authority conferred on the state board of education by sections 1701 and 1703 of Act No. 451 of the Public Acts of 1976, as amended, section 9 of Act No. 94 of the Public Acts of 1979, as amended, and section 48 of Act No. 306 of the Public Acts of 1969, as amended, being sections 380.1701, 380.1703, 388.1609 and 24.248 of the Michigan Compiled Laws)

FINDING OF EMERGENCY

These rules are promulgated by the State Board of Education for the purpose of implementing section 40 of Act No. 373 of the Public Acts of 1980. The Department proposed the following administrative rules to effect cost-savings in programming, services, and administration for school districts and the Department. These rules respond to current fiscal conditions by modifying certain functions and thus permitting school districts to make necessary program adjustments.

The Department is authorized to administer these rules and finds that the public health, safety and welfare requires promulgation of these rules as emergency rules without following the notice and participation procedures required by sections 41 and 42 of Act No. 306 of the Public Acts of 1969, as amended.

Definitions.

Rule 1. As used in these rules:

(a) "Additional transportation services" means transportation services in excess of those transported distances established by local board policy for transportation to a regular school program.

(b) "Specialized transportation services" means transportation services provided in vehicles with or without equipment necessary for adequate and safe transportation of special education students.

April 28, 1981

Eligibility for transportation services.

Rule 2. A handicapped person shall be eligible for transportation services provided for regular pupils and for additional or specialized transportation services, or both, when it is necessary for a handicapped person to attend approved special education programs or services.

Educational planning committee; establishment of additional or specialized transportation services.

Rule 3. (1) Additional or specialized transportation services, or both, shall be established by the individual educational planning committee.

(2) The individual educational planning committee shall include the transportation director or designee if deemed necessary by the superintendent or designee at the time the individualized educational planning committee is scheduled.

(3) The committee shall consider the nature of the handicap condition which must be accommodated by specialized transportation services.

Annual review of need for additional or specialized transportation service.

Rule 4. The special education director and transportation director shall review annually the need for additional or specialized transportation services, or both.

Coordination or provision of transportation services.

Rule 5. The intermediate school district shall coordinate or provide for additional or specialized transportation, or both, of an eligible handicapped person, as determined by the individual educational planning committee specifications, which are designed to meet the transportation needs of these students to programs located either inside or outside the boundaries of the local school district in which the person resides. The plan for coordinated additional or specialized transportation services, or both, shall be included within the intermediate school district's plan for delivery of special education programs and services. The services included in the plan may be provided by any local school district, intermediate school district, private contractor, or any combination thereof, in order to receive state school aid for additional or specialized transportation, or both.

Eligibility for state school aid for transportation of handicapped persons.

Rule 6. (1) A school district is not eligible for state school aid for transportation of handicapped persons unless the school bus route or other transportation service is approved by the intermediate school district superintendent or designee prior to the implementation of service.

(2) Temporary approval for a period of not more than 30 days may be granted to permit development and evaluation of alternative routes or services.

(3) Approval may be withdrawn for a route or service if there is a reduction in the number of persons served if those remaining can be properly served by another existing route. Approval may be withdrawn for a route or service if an alternate route or service would significantly improve services.

(4) If approval is withdrawn for any reason stated in subrules (2) and (3) of this rule, a vehicle owned or leased by a district that was used on an approved route may be continued on the inventory for that year as if the route were continued for the balance of that year. Other costs incurred after withdrawal of approval are not eligible for reimbursement.

Authorization of overlapping or duplicate routes or services prohibited; exception.

Rule 7. The intermediate superintendent shall not authorize a school bus route or other transportation service that unnecessarily overlaps or duplicates routes or services provided by the same or any other school district, unless there are instances when a specialized vehicle is needed to transport a handicapped student who would otherwise not be able to participate in an appropriate educational program.

Intermediate superintendent; maintenance of information of services required.

Rule 8. The intermediate superintendent shall maintain maps or other suitable descriptions of all regularly scheduled additional or specialized transportation services, or both, provided for handicapped persons attending each approved program for the handicapped. This information shall be reviewed at least annually by the intermediate superintendent or his or her designee.

State school aid; prohibited allotments.

Rule 9. State school aid for transportation shall not be allotted for the following:

(a) Additional or specialized transportation service, or both, for a handicapped person in excess of that which is necessary to permit the handicapped person to attend the nearest available approved program or service for persons with similar unique needs in accordance with the least restrictive provisions of the law and the decisions of the individual educational planning committee.

(b) Transportation of handicapped persons to or from field trips or recreational and athletic activities.

Mileage log.

Rule 10. The superintendent of a district providing additional or specialized transportation services, or both, which are eligible for state school aid and which are provided with school-owned vehicles shall keep a log showing the total miles driven and expenditures attributed to the eligible miles. The cost for this transportation shall be calculated by multiplying the average cost per mile for additional or specialized transportation, or both, by the logged miles which are ineligible for state school aid, minus the drivers salary.

Billing of charges for ineligible transportation.

Rule 11. If ineligible transportation is provided by a private contractor, the charges for this transportation shall be billed separately and the paying district shall maintain a record of all such payments.

DEPARTMENT OF EDUCATION

STATE BOARD OF EDUCATION

SPECIAL EDUCATION PREPRIMARY

EMERGENCY RULES

Filed with the Secretary of State on
These rules take effect upon filing with the Secretary of State

(By authority conferred on the state board of education by sections 1701 and 1702 of Act No. 451 of the Public Acts of 1976, as amended, and section 48 of Act No. 306 of the Public Acts of 1969, as amended, being §§380.1701, 380.1703, and 24.248 of the Michigan Compiled Laws)

R 340.1701, R 340.1711, R 340.1754, R 340.1755, and R 340.1795 of the Michigan Administrative Code, appearing on pages 44 to 46, 50, 68, 74, and 75 of Quarterly Supplement No. 3 to the 1979 Michigan Administrative Code, are amended to read as hereinafter set forth.

FINDING OF EMERGENCY

These rules are promulgated by the state board of education for the purpose of implementing section 40 of Act No. 373 of the Public Acts of 1980. The department is amending the following administrative rules to effect cost savings in programming, services, and administration for school districts and the department. These rules respond to current fiscal conditions by modifying certain functions and thus permitting school districts to make necessary program adjustments.

The state board of education is authorized to administer these rules and finds that the public health, safety and welfare requires promulgation of these rules as emergency rules without following the notice and participation procedures required by sections 41 and 42 of Act No. 306 of the Public Acts of 1969, as amended, being §§24.241 and 24.242 of the Michigan Compiled Laws.

PART 1. GENERAL PROVISIONS

R 340.1701 Definitions; A to E.

Rule 1. As used in these rules:

(a) "Adaptive behavior" means an individual's ability to perform the social rules appropriate for a person of his or her age and gender in a manner which meets the expectations of home culture, school, neighborhood, and other relevant groups in which he or she participates.

(b) "Agency" means a public or private entity or organization, including, but not limited to, the local education agency, intermediate school district, the department, and any other political subdivision of the state which is responsible for providing education or services to handicapped persons.

(c) "Ancillary and other related services" means services specially designed to meet the unique needs of a handicapped person to age 25, including, but not limited to, all of the following:

(i) Audiological, medical, psychiatric, psychological, speech and language, or educational evaluation.

(ii) Occupational, physical, recreational, music, work, or other therapy.

(iii) Mobility and orientation services, and special education services provided by other nonteaching personnel.

(iv) Transportation.

(v) Services designed to assist the regular education student, including school psychological and social work services.

(vi) Instruction provided by special education teachers designed to assist regular education students who are homebound, hospitalized, or placed in juvenile detention facilities.

(VII) SERVICES TO PREPRIMARY AGE INFANTS, WHICH INCLUDE, WHERE APPROPRIATE, EVALUATION, THERAPY, CONSULTATION WITH PARENTS, AND TRAINING ACTIVITIES.

(d) "Annual goals" means a set of general statements which represent expected achievement over a year's time for handicapped persons enrolled in special education programs and services.

(e) "Approved program" means a program that is described in the intermediate school district plan and is being operated in compliance with state and federal rules and regulations governing the provision of special education to eligible handicapped persons.

(f) "Change in educational status" means an assignment or reassignment, of a handicapped person to regular education, special education programs and services, or from one type of special education program or service to another, or termination of special education programs or services by reassignment, graduation, or expulsion. Any change in grade levels within an educational program level, such as preprimary, elementary, junior high, or senior high, shall not constitute a change in educational status, but a change from one educational program level to another constitutes a change in educational status.

(g) "Complaint" means a written claim that there has been a specific violation, misinterpretation, or misapplication of any provision of these rules; Act No. 451 of the Public Acts of 1976, as amended, being §380.1 et seq. of the Michigan Compiled Laws, as it pertains to special education programs and services; the education for all handicapped children act of 1975, 20 U.S.C. §1401 et seq., and the regulations implementing the act; the state board of education's special education plan; or an intermediate school district's special education plan.

(h) "Comprehensive evaluation" means an evaluation conducted for the purpose of determining eligibility for special education and related services and for determining the current level of educational performance. The multidisciplinary team, members of the team, the individualized educational planning committee, or a hearing officer shall determine the comprehensiveness of an evaluation based on individual needs.

(i) "Consent" means an agreement in writing to carry out an activity after being fully informed in one's native language of all information relevant to the activity. Consent is voluntary and may be revoked in writing at any ti

(j) "Department" means the state department of education.

(k) "Destruction of records" means either the physical destruction of information or the removal of personal identifiers from information so that the information is no longer personally identifiable.

(l) "Education records" means those records that are directly related to a student and are maintained by an educational agency or institution or by a party acting for the agency or institution. The term does not include any of the following:

(i) Records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker thereof and which are not accessible or revealed to any other individual except a substitute. For the purpose of this definition, a "substitute" means an individual who performs on a temporary basis the duties of the individual who made the record, and does not refer to an individual who permanently succeeds the maker of the record in his or her position.

(ii) Records of a law enforcement unit of an educational agency or institution which meet all of the following conditions:

(A) The records are maintained apart from the records that are directly related to a student and are maintained by an educational agency or institution or by a party acting for the agency or institution.

(B) The records are maintained solely for law enforcement purposes.

(C) The records are not disclosed to individuals other than law enforcement officials of the same jurisdiction and education records maintained by the educational agency or institution are not disclosed to the personnel of the law enforcement unit.

(iii) Records relating to an individual who is employed by an educational agency or institution which meet all of the following conditions:

(A) The records are made and maintained in the normal course of business.

(B) The records relate exclusively to the individual in that individual's capacity as an employee.

(C) The records are not available for use for any other purpose. This paragraph does not apply to records relating to an individual in attendance at the agency or institution who is employed as a result of his or her status as a student.

(iv) Records relating to an eligible student which meet all of the following conditions:

(A) The records are created or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional or paraprofessional capacity, or assisting in that capacity.

(B) The records are created, maintained, or used only in connection with the provision of treatment to the student.

(C) The records are not disclosed to anyone other than individuals providing the treatment. However, the records may be personally reviewed by a physician or other appropriate professional of the student's choice. For the purpose of this definition, "treatment" does not include remedial educational activities or activities that are part of the program of instruction at the educational agency or institution.

(v) Records of an educational agency or institution that contain only information relating to a person after that person was no longer a student at the educational agency or institution. An example would be information collected by an educational agency or institution pertaining to the accomplishments of its alumni.

R 340.1711 "Preprimary impaired" defined; determination; effective date.

Rule 11. (1) "Preprimary impaired" means a child up to 5 years of age whose primary impairment cannot be ~~determined~~ DIFFERENTIATED through existi criteria within R 340.1703 to R 340.1710 or R 340.1713 ~~to~~ AND R 340.1714 an who manifests ~~1-or-more-of-the-following-characteristics:~~ AN IMPAIRMENT IN 1 OR MORE AREAS OF DEVELOPMENT EQUAL TO OR GREATER THAN 1/2 OF THE EXPECTED DEVELOPMENT FOR CHRONOLOGICAL AGE, AS MEASURED BY MORE THAN 1 DEVELOPMENTAL SCALE, WHICH CANNOT BE RESOLVED BY MEDICAL OR NUTRITIONAL INTERVENTION. THIS DEFINITION SHALL NOT PRECLUDE IDENTIFICATION OF A CHILD THROUGH EXISTING CRITERIA WITHIN R 340.1703 TO R 340.1710 OR R 340.1713 AND R 340.1714.

~~(a)--Impairment-in-1-or-more-areas-of-development-equal-to-or-greater-tha 1/2-of-the-expected-development-for-chronological-age-as-measured-by-more than-1-developmental-scale-and-which-cannot-be-resolved-by-medical-or nutritional-intervention.~~

~~(b)--Lack-of-appropriate-response-to-visual-or-auditory-stimuli.~~

~~(c)--Inappropriate-behavior-or-affective-responses-which-interfere with-normal-developmental-functioning.~~

(2) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team ~~which-shall-include-a psychologist~~.

(3) A determination of impairment shall not be based solely on behaviors relating to environmental, cultural, or economic differences.

(4) This rule shall take effect on September 1, 1981.

PART 3. ADMINISTRATION OF PROGRAMS AND SERVICES

R 340.1754 Preprimary impaired classroom programs; effective date.

Rule 54. Specific requirements for classroom programs for the preprimary impaired are as follows:

(a) A special education-approved, preprimary teacher shall be provided to children 3 to 5 years of age based upon the child's individual needs as specified by the individualized educational planning committee. Districts may include children up to 2 years of age AS SPECIFIED BY THE INDIVIDUALIZED EDUCATIONAL PLANNING COMMITTEE.

(b) The program shall be available for a minimum of ~~450~~ 360 clock hours and ~~180~~ 144 days of instruction.

(c) The program shall have not more than ~~10~~ 12 students for 1 teacher and 1 aide at any one time, and the teacher shall have responsibility for the educational programming for not more than ~~20~~ 24 different students.

(d) The program shall have a parent participation and education component.

(e) This rule shall take effect on September 1, 1981.

R 340.1755 NONCLASSROOM ~~Instructional~~ ANCILLARY services to preprimary age ~~children~~ INFANTS: effective date.

Rule 55. Specific requirements for nonclassroom ~~instructional~~ services for preprimary age impaired ~~children~~ INFANTS are as follows:

(a) ~~Instructional-services~~ SERVICES shall be provided by a special education-approved, preprimary teacher OR APPROVED ANCILLARY STAFF to children up to ~~5~~ 2 years of age based upon the child's individual needs as specified by the individualized educational planning committee. DISTRICTS MAY INCLUDE CHILDREN UP TO 5 YEARS OF AGE AS DETERMINED BY THE INDIVIDUALIZED EDUCATIONAL PLANNING COMMITTEE. APPROVED ANCILLARY STAFF SHALL WORK UNDER THE SUPERVISION OF A CERTIFIED TEACHER.

(b) ~~Instructional~~ NONCLASSROOM services shall ~~include~~ BE PROVIDED FOR a minimum of 2 hours ~~of-instruction~~ per week, but not less than 72 clock hours ~~in~~ WITHIN 180 SCHOOL days ~~of-instruction.~~ ~~Instructional-services~~ SERVICES may be provided in a home or school setting.

(c) ~~If-instructional-services-are-provided-in-a-school-setting,-the teacher-shall-have-not-more-than-4-children-nor-more-than-8-children-for-1 teacher-and-1-aide-at-one-time.~~ A NONCLASSROOM SERVICES UNIT FOR PREPRIMARY AGE IMPAIRED INFANTS SHALL CONSIST OF ONE OF THE FOLLOWING:

(I) ONE TEACHER OR APPROVED PREPRIMARY ANCILLARY STAFF FOR A MAXIMUM OF 15 STUDENTS, OR

(II) ONE LEAD TEACHER OR APPROVED PREPRIMARY ANCILLARY STAFF AND 1 AIDE FOR A MAXIMUM OF 22 STUDENTS, OR

(III) ONE LEAD TEACHER OR APPROVED PREPRIMARY ANCILLARY STAFF AND 2 AIDES FOR A MAXIMUM OF 30 STUDENTS.

(d) The program shall have a parent participation and education component.

(e) This rule shall take effect on September 1, 1981.

R 340.1795 Teachers of preprimary age impaired; special requirements; effective date.

Rule 95. (1) A fully approved teacher for preprimary children, in addition to meeting the specific requirements set forth in R 340.1782, shall possess 1 of the following:

(a) A major or minor in early childhood education or child growth and development, AS RECOMMENDED BY AN APPROVED UNIVERSITY.

(b) The early childhood endorsement on the teaching certificate ~~(18 semester-hours-or-24-term-hours-in-a-planned-program)~~ OR ITS EQUIVALENT.

~~(c)--The-child-development-associate-credential.~~

(2) Certified staff WHO HAVE HAD PREVIOUS EXPERIENCE IN PREPRIMARY PROGRAMS AND WHO HAVE BEEN assigned to programs for preprimary children ~~at~~ WITHIN 5 YEARS PRIOR TO the time this rule becomes effective shall have full approval.

(3) This rule shall take effect on September 1, 1981.

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SESA OFFICIAL INTERPRETATIONS

R 340.1788-01
I-001
3/26/75

SUBJECT:

Approval; Learning Disabled teachers

SPECIFIC ISSUE:

If one meets state minimum requirements for Learning Disabled approval, can a college/university require additional work beyond the minimum?

INTERPRETATION:

Yes. The requirements for approval of teachers of the learning disabled, as set forth in the Michigan Special Education Code, are only minimum requirements for S.L.D. teachers as set forth by the State. Colleges and/or universities, providing S.L.D. teacher training programs, must provide course work and experiences which allow a teacher to meet the minimum requirements and may also include additional requirements over and above the minimum.

Until completion of the requirements of the particular college and/or university one is attending, that institution will not send the State Department a recommendation to grant full approval in learning disabilities. Without their recommendation, the State Department cannot grant approval.

R 340.1738-01
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I-002
6/17/75

SUBJECT:

Supportive services for Severely Mentally Impaired, Severely Multiply Impaired program

SPECIFIC ISSUE:

Are the services of a physical therapist and a teacher of the speech and language impaired required throughout the summer?

INTERPRETATION:

Yes. If these services are determined necessary by an IEPC, they must be provided throughout the 230-day school year.

R 340.1701-01
I-003
10/31/75

SUBJECT:

Auxilliary services

SPECIFIC ISSUE:

Who provides auxilliary services to a student residing in District A and attending a non-public school program in District B?

INTERPRETATION:

Under the Auxilliary School Services Act, the district where the non-public school is located is responsible for providing the service(s). In this example, District B is responsible for providing service to students attending a non-public school in their district.

R 340.1722-01
I-004
7/26/76

SUBJECT:

"Resource Rooms;" assignment of students

SPECIFIC ISSUE:

How may students be assigned to "Resource Rooms?"

INTERPRETATION: Placement Procedure

There is no category of "Resource Room" under Michigan Administrative Rules. All handicapped persons must be assigned to programs or services designed to meet their educational needs (R 340.1722). Keeping this fact in mind, districts must assure that each student assigned to special education has been appropriately diagnosed and assigned to those programs and services necessary to meet student needs as determined by the individualized educational planning committee.

A number of complaints received by the Department alleging inappropriate placement of students into "resource rooms" would be resolved if all districts would follow the notice procedure established in R 340.1723b. Rule 23b requires the district to:

(a) notify the parents of the proposed change in educational status and describe the proposed assignment.

(b) identify the student's disability by name and rule number using the officially designated impairments identified in Rules 3 through 14 of the Special Education Code.

The individualized educational planning committee report must identify the specific type of special programs and/or services to be provided; for example, classroom of the educable mentally impaired, teacher consultant services, and so forth.

Every individualized educational planning committee report must list by official name and rule number the special education program(s) and service(s) to be provided. Districts may not use locally designated terms, such as "resource room" or "learning center" to fulfill the intent of the Special Education Code.

If the above procedure is followed, parents and educators will have less difficulty recognizing when the student is assigned to a special education teacher and when the student is assigned to a special education consultant.

R 340.1722-02
I-005
12/17/76

SUBJECT:

Voluntary school leavers and re-enrollment

SPECIFIC ISSUE:

Can a school district require voluntary school leavers to reenroll at school-specified times only?

INTERPRETATION:

If they are not handicapped and are sixteen years of age or over, yes. For those who are under sixteen or are handicapped and under age 26, no. The compulsory attendance law prevails for all from 6 to 16 years.

R 340.1751-01
I-006
12/20/76

SUBJECT:

Approval of curriculum resource consultants as supervisors

SPECIFIC ISSUE:

Can a curriculum resource consultant be a supervisor?

INTERPRETATION:

No. The Department of Education policy is to not grant supervisory approval to curriculum resource consultants. The role of supervisor as provided in Rules 51 and 52 of the Special Education Code is restricted to persons who have a responsibility for the work of teachers or other professional personnel who are under their district administration. Supervisory status is granted for those persons whose role and function require them to be administratively responsible for other employees. If an employee is functioning as a Curriculum Resource Consultant, as approved under Rule 91, then it would be inconsistent for the CRC to function as a supervisor of Special Education.

R 380.1711-01
I-007
1/5/77

SUBJECT:

Community mental health centers

SPECIFIC ISSUE:

Can an intermediate school district contract with a mental health agency to provide education programs?

INTERPRETATION:

No. Section 771A of Public Act 198 and superseded by Section 380.1711(1)(i) of P.A. 451 clearly identifies those agencies from which a local or intermediate district may contract programs. This section does not authorize contracting with local units of government such as community mental health boards.

R 340.1724a-01
I-008
3/23/77

SUBJECT:

Hearing officer; functions and limitations

SPECIFIC ISSUE:

(1) If an IEPC is not legally convened but the superintendent makes a placement anyway, can the parent request a hearing based on their disagreement with that placement?

(2) Is it proper for a hearing officer to report compliance violations?

INTERPRETATION:

(1) Yes. Even if an IEPC is not legally convened, the parent has a right to contest a placement and for the hearing to take place without the delay which would be created by sending the case back through a legal IEPC. If both parties agree, a new IEPC may be convened rather than using the hearing or arbitration process. However, once a school district makes a placement decision, they cannot refuse to go to a hearing if the parent requests such action.

(2) It may be "proper" as in legal or within the authority of the hearing officer. It is not an explicit requirement or a responsibility by law. Further, to assume that posture may be ill-advised as it mitigates most incentive for candor in the hearing if in the interest of the child the administrator admits problems with rules, then finds his school district to be the object of a complaint filed by the hearing officer. It also has implications on the confidentiality of the transcript.

R 340.1748-02
I-009
4/27/77

SUBJECT:

Severely multiply impaired

SPECIFIC ISSUE:

What type of special education teacher approval is required to teach a program for the severely multiply impaired?

INTERPRETATION:

The table below lists the type of teacher approvals and those teachers who are authorized to teach the severely multiply impaired.

Special Education Teachers Approved to Teach the Severely Multiply Impaired

Type of Approval	Authorized to Teach Severely Multiply Impaired
Hearing Impaired	Yes
Mentally Impaired	Yes
Physically & Otherwise Health Impaired	Yes
Visually Impaired	Yes
Emotionally Impaired	No
Learning Disabled	No
Speech	No

R 340.1722a-01
I-010
5/9/77

SUBJECT:

Assignment of special education personnel to "private nursery schools."

SPECIFIC ISSUE:

Are districts obligated to assign speech and language impaired staff to private nursery schools?

INTERPRETATION:

"Private nursery schools" are licensed by the Department of Social Services and are not considered "schools," as defined in the School Code of 1976. Therefore, there is no obligation to assign speech and language services. Since intermediate and constituent districts are responsible for providing speech and language services to preschool handicapped, it may be convenient to provide the service at a preschool facility.

R 340.1721d-01
I-011
10/3/77

SUBJECT:

Students; handicapped, over age 26

SPECIFIC ISSUE:

Under what conditions may a school district serve a handicapped student over age 26?

INTERPRETATION:

A school district may serve a person who is over age 26 if no costs are submitted for state reimbursement and if the costs of programming are assumed by an agency or individual other than a local or intermediate school district.

A deviation under R 340.1721 is not necessary.

R 340.1746-01
I-012
10/7/77

SUBJECT:

Homebound services to pregnant students

SPECIFIC ISSUE:

Can special education homebound services be provided to pregnant girls?

INTERPRETATION:

Homebound services can only be provided if there is a medical statement indicating that, due to health factors, either related to or unrelated to the pregnancy, the girl cannot attend school.

Health factors related to the pregnancy must be such that either the girl and/or her unborn child would be adversely affected physically by school attendance.

R 340.1837-01
I-013
11/29/77

SUBJECT:

ISD plans; state approval; implications and significance

SPECIFIC ISSUE:

General information

INTERPRETATION:

Approval of an ISD plan by the State Board of Education is an authorization to operate special education programs and services and authorizes the ISD and its constituents to receive state aid under Chapter 5 of the State Aid Act.

Approval of the plan does not assure that all programs are operating in compliance with the law because certain requirements as stated within the ISD Plan are open to interpretation and until the ISD has been monitored by the Compliance, Approval and Monitoring Program of SESA, it cannot be guaranteed that all of the many and complicated contents of the Intermediate Plan are in compliance with the law.

State Board approval means that the Plan has assured the availability of a continuum of Special Education programs and services for all Special Education students as well as compliance with R 340.1832 of the Rules and Regulations. Approval does not in itself grant deviations on matters that require deviation requests; established procedures for seeking deviations must be followed.

Local superintendents or parent advisory committee chairpersons should sign the Plan if they have been involved in its development, irrespective of whether they agree with any or all parts of it. Objections should be submitted to the Department for review and subsequent investigation. The Department will present the Plan, the objection(s), and staff recommendations on the Plan to the State Board of Education for action.

A school district cannot receive state aid for a special education program or service which has not met the requirements established in the ISD Plan for approval. The plan is a management document. It was the intent of Section 1711 of the School Code of 1976 to allow the Intermediate School District to identify the most effective delivery system. Section 1751(4) allows local districts to provide special education programs and services beyond those authorized in the Plan and to assign special education eligible students to these programs if the program operates according to the rules promulgated by the State Board and the procedures established by the ISD Plan (Section 1751(3)). Local Districts operating programs beyond those authorized in the ISD Plan may not receive Intermediate School District reimbursement (Section 1711(2)), nor state aid, unless a deviation or waiver is obtained.

A district may, however, increase or decrease the number of personnel based on identification of need rather than the estimates in the Plan, but the Plan must be amended to add a new program not previously authorized or to eliminate a program or service previously authorized.

R 340.1802-01
I-014
11/29/77

SUBJECT:

School lunches; institutions

SPECIFIC ISSUE:

Who is responsible for the cost of lunches/meals for institutional residents participating in the educational program of an educational agency?

INTERPRETATION:

The institution is responsible for providing lunches to students at the educational facility. Three options are 1) prepare sack lunches and milk to be delivered to educational site 2) prepare, transport and serve hot lunches at the educational site 3) cover the cost of meals served students through state or federal funds.

R 340.1801-01
I-015
12/7/77

SUBJECT:

Tuition; out of state

SPECIFIC ISSUE:

Can an Intermediate School District or Local Educational Agency that is not adjacent to a bordering state, contract with an out-of-state district and pay tuition for an instructional program?

INTERPRETATION:

Paying out-of-state tuition is illegal. A local school district or an Intermediate School District which for any reason cannot contract for a program for a resident handicapped person must then operate a program for the person. Districts may, however, contract ancillary services from other states {380.1751(1)(6)}.

R 340.1810-01
I-016
12/8/77

SUBJECT:

Transportation for evaluation

SPECIFIC ISSUE:

Is it allowed and can the cost be claimed for state reimbursement?

INTERPRETATION:

Yes. Reimbursement is allowable if approved by the ISD or LEA when evaluation is deemed necessary.

R 340.1701-02
I-017
1/3/78

SUBJECT:

Occupational Therapy

SPECIFIC ISSUE:

Are medical prescriptions required for the delivery of occupational therapy service?

INTERPRETATION:

Although it is both desirable and preferable for the occupational therapist to function with a prescription, this professional role does not require a medical prescription prior to a delivery of service.

R 340.1713-01
I-018
1/5/78

SUBJECT:

Learning disabled; diagnosis

SPECIFIC ISSUE:

Is poor handwriting a determinant for defining learning disability program eligibility?

INTERPRETATION:

No. The IEPC determining eligibility for programs or services for the learning disabled must have specific evidence which identifies an inability to understand or use spoken or written language. Poor handwriting, in and of itself, is not a qualification for eligibility under the rules. There must be significant evidence which indicates that the person has a disability which interferes with the normal process of learning to write. Persons with a physical disability that makes it impossible to write using normal techniques are usually eligible under Rule 8 (visually impaired) or Rule 9 (physically impaired).

A student who has the developmental skills to write, understands the purpose for using written language, and is physically capable of writing, who is yet unable to do so, could be considered eligible as having a learning disability if this is due to perceptual problems, neurological or neuro-muscular problems. Special instruction might include teaching the student braille or other compensatory skill or, if feasible, teaching the student how to use cursive or manuscript writing.

The determination of eligibility assumes that the inability to write is not due to some social or cultural background such as never attending school, moving from a foreign country, moving between a number of school districts that use various methods of teaching writing, etc.

If there is not sufficient information to determine eligibility, further diagnostic data should be obtained to determine whether the inability to write is the result of a neurological deficit or some other factor.

R 340.1724b-01
I-019
1/25/78

SUBJECT:

Hearings; parent right to compel school representatives to attend

SPECIFIC ISSUE:

Is there a limit to the number of and types of persons who can be compelled by parents to attend a hearing?

INTERPRETATION:

Yes. The rule authorizes the parents to cross-examine any witness that testifies for the local or intermediate district. It further authorizes the parents to request the attendance of any employee of the local or intermediate district or any person who has been directly involved in evaluating, educating or providing support services to a handicapped child. This would include general education and special education personnel as well as diagnostic persons who provided a service to the child under contract with the local or intermediate district.

The rule does not empower the parents to compel the attendance of school administrators, diagnostic or other instructional personnel who have not been involved directly with the child or the aspect of the child's disputed program or service, nor does it allow the parents to compel the attendance of persons whose only involvement with the child has been at the administrative level.

It is further interpreted that it is the responsibility of the school district to pay the reasonable expenses involved in having their representatives attend the hearing. This includes the cost of having contracted persons attend the hearing where such contracted persons were directly involved in the evaluation of provision of supplemental services to the handicapped child.

R 340.1809-01
I-020
2/14/78

SUBJECT:

Memberships for non-resident students in out-of-formula district

SPECIFIC ISSUE:

Should Intermediate School Districts count all of the time a non-resident handicapped student spends in an out-of-formula district or just the special education portion?

INTERPRETATION:

Section 111(3) of the 1977 State Aid Act provides, in part . . . "Special education tuition pupils enrolled in a district not receiving membership allowance under section 21 shall be counted in membership in the intermediate district to which the district is constituent, and the resulting membership aid shall be paid by the intermediate district to the receiving district and deducted from the tuition rates charged the sending district."

It is the Department's position that this section allows the Intermediate School District to count all of the time spent in the out-of-formula district, both general education time and special education time, when computing the full-time equivalent to be reported to the State. If any Intermediate School Districts are using only the special education time, they are advised to correct their procedures.

R 340.1832-01
I-021
4/17/78

SUBJECT:

Intermediate school district plan

SPECIFIC ISSUE:

May the intermediate school district plan include a requirement that local education agencies submit copies of all IEPC's, IEP's and other pertinent data to the intermediate office?

INTERPRETATION:

Yes. Such a requirement may be written into the intermediate school district plan.

R 340.1701-03
I-022
4/19/78

SUBJECT:

Occupational therapists

SPECIFIC ISSUE:

Can occupational therapists provide therapy to regular education students?

INTERPRETATION:

Occupational therapists, reimbursed by special education funds, may only provide evaluation services for students who are handicapped or suspected of being handicapped. Districts may hire occupational therapists to work with regular education students provided they do not cover the cost of the person with special education funds.

R 340.1771-01
R 340.1772-01
R 340.1774-01
I-023
5/5/78

SUBJECT:

Teaching certificates for approval of special education administrators

SPECIFIC ISSUE:

Does a Special Education director, supervisor or administrator with supervisory instructional responsibility require a teaching certificate?

INTERPRETATION:

No. On March 23, 1978, Attorney General Frank Kelley ruled that the State Board of Education may not require that school administrators with supervisory responsibility hold teaching certificates. The Attorney General indicated that present legislation does not provide the State Board with this power. The legislature may, of course, in the exercise of its discretion enact such legislation.

This ruling has been discussed with representatives of the Attorney General's office. As a result of this discussion, Special Education Services will no longer require a valid Michigan teaching certificate as part of the criteria for granting approval for directors of special education or supervisors of special education.

R 340.1733-01
I-024
6/5/78

SUBJECT:

Classroom location

SPECIFIC ISSUE:

Can a pre-school program for POHI students be housed in a TMI facility?

INTERPRETATION:

Yes. Michigan law does not provide for regular education programs for preprimary students, and since the parent is the person responsible for supervision and education of children under the age of 5, the State Board of Education has identified the home to be the least restrictive environment or normal setting for preprimary special education students. School districts are required to provide preprimary classroom programs where these are needed for the education of handicapped children. However, school districts are not required to establish regular education preprimary programs so that handicapped children may be integrated with non-handicapped children or to contract with day care centers, Head-start, or other private preprimary programs to allow handicapped children to be educated with children who are not handicapped. This definition of least restrictive education environment was approved by the State Board of Education on April 18, 1978.

R 340.1701a-01
I-025
8/4/78

SUBJECT:

Physical therapy and occupational therapy services

SPECIFIC ISSUE:

Can physical therapy and occupational therapy be provided to handicapped students who receive no other services?

INTERPRETATION:

Yes. However, the person must be determined to be eligible for special education services by an IEPC.

R 340.1802-02
I-026
10/30/78

SUBJECT:

Food cost reimbursement

SPECIFIC ISSUE:

May school districts claim the cost of lunches provided to handicapped children and receive state special education reimbursement for same?

INTERPRETATION:

No. The only food costs that can be reimbursed as instructional supplies, are those items used for behavioral modification or food that is used for instructional purposes for home economics or vocational training programs provided under the direction of a special education teacher. School districts are prohibited from using home economics programs or special education reimbursed food service vocational training programs for the daily preparation of hot lunches for their students.

R 340.1723a-01
I-027
11/8/78

SUBJECT:

Evaluation of handicapped child; parent refusal

SPECIFIC ISSUE:

How does the school district proceed when a parent refuses evaluation or placement of a handicapped child?

INTERPRETATION:

The school district must provide written notice to the parent, indicating the district suspects the child is handicapped, and requesting the parent's permission to evaluate the child. The notice should contain the behavior exhibited by the child which indicates to the district that the child may be in need of special education programs and/or services. The notice should contain a description of the evaluation procedure that the district wishes to use to determine if the child is eligible for special education programs and services. The notice must be written in language which is understandable to the parent. If it is known that the parent does not speak English, notice should be written in the native language of the parent(s). The notice should contain a sentence to the effect that if the parent does not understand the notice, they can contact the school district for further explanation.

It is suggested that notice be sent by certified mail, return receipt requested, so that the school district has evidence of receipt of the notice.

If the parents grant permission, the school district may then proceed with the evaluation. If the parents refuse to grant their consent, the school district may have an impartial due process hearing. If the hearing officer authorizes it, the district may evaluate the student and convene an IEPC to determine eligibility.

R 340.1793-01
R 340.1794-01
I-028
11/20/78

SUBJECT:

Paraprofessionals

SPECIFIC ISSUE:

Can a paraprofessional provide services to a handicapped student in the home for two non-consecutive hours per week without a teacher ever being present?

INTERPRETATION:

No. Instructional aides may be assigned to perform instructional duties as needed to complement and reinforce instruction given by the teacher. Aides may not be given full responsibility for instruction.

R 340.1722-03
I-029
4/24/79

SUBJECT:

Operation of both full-day and half-day programs by a district.

SPECIFIC ISSUE:

Can a school district operating on a reduced school day have special education students on half-days in the regular school and others on full-days in center programs administered by the same district?

INTERPRETATION:

Yes, if the district is given permission to operate in such a manner by the State Board of Education. This means that the State Board of Education could authorize the school district to run half-day programs for all general and special education students in regular programs and also authorize full-day programs for students being served in center programs.

R 340.1871-01
I-030
6/11/79

SUBJECT:

Records of children; ISD right to obtain for monitoring purposes

SPECIFIC ISSUE:

By what authority may an Intermediate School District secure confidential records of children in order to conduct its monitoring and compliance functions with its Local Educational Agency?

INTERPRETATION:

P.A. 451 of 1976 provides specific authority to the ISD to monitor and evaluate special education programs and services operated by local districts. The intermediate school district has the authority and responsibility to plan, coordinate, and evaluate programs operated by their local districts. Administrative rules specify the role and responsibility of the intermediate school district for carrying out its mandate.

Additionally, the rules specify the ISD role and responsibility in carrying out investigations and monitoring. There is no conflict with the Family Rights and Privacy Act which authorizes state or local agencies to have access to such confidential information where it is needed, as prescribed in state statutes which were passed prior to November 14, 1974.

R 340.1801-02
I-031
9/6/79

SUBJECT:

Placement; out-of-state

SPECIFIC ISSUE:

Who pays for the education of a handicapped Michigan student placed in an institution in another state?

INTERPRETATION:

The parent or child placement agency is responsible to pay cost if they choose to place a handicapped child in another state if the receiving state will not accept the student as a resident. Michigan legislation does not permit funds to be paid to another state, nor to private schools for special education programs and services, treatment or residential care.

If the placement is made by a state agency, the state agency may charge for a free appropriate education. LEA and ISD may not place or pay for education in private schools (Sec. 380.6 of the School Code of 1976 and Sec. 2 of Article 8 of the State Constitution of 1963).

Public schools that border another state may place a handicapped student in a public school district bordering Michigan and pay tuition (in accordance with Section 380.1751(1)(b) of the Michigan School Code.

R 340.1733-02
I-032
9/12/79

SUBJECT:

Instructional days and hours

SPECIFIC ISSUE:

What is the intermediate school district's role when a constituent district is unable to meet its obligation to provide minimum numbers of days and instructional hours due to strikes?

INTERPRETATION:

The appropriate role of the intermediate district is to:

A) Advise the local district and the teachers' union of their responsibilities and to provide whatever service it can to help the local district reconvene the programs so the legal obligation can be met. There have been situations in the past where both the union and the school district have agreed to allow the special education programs to operate during the strike so these programs could meet statutory requirements and to assure that no irreparable harm results from an absence of service for the handicapped students involved.

B) Notify LEA they will be in violation of State Aid Act if they don't operate 180 days.

C) Notify State if the District is found in violation of child attendance rules (as required by R 340.1851 and 1850).

R 340.1733-03
I-033
9/27/79

SUBJECT:

Minimum days/hours of Instruction

SPECIFIC ISSUE:

May the length of the instructional day vary so long as the preprimary program operates a minimum number of days (180) and total hours (450)?

INTERPRETATION:

Yes. The number of hours per day a program operates throughout the year may vary - so long as the total per year meets the legal requirement.

R 340.1721b-01
I-034
10/8/79

SUBJECT:

Voting procedures at IEPC meetings

SPECIFIC ISSUE:

If a parent/guardian brings a guest and/or representative to the IEPC meeting, does this individual (guest and/or representative) share the responsibility in the process of determining group consensus as one of the members of the IEPC?

INTERPRETATION:

Rule 340.1721b of the Michigan Administrative Code indicates it is the responsibility of the superintendent of the operating district to select members of the IEPC. Unless it is otherwise specified in the ISD Plan, only those persons appointed and invited by the superintendent are official representatives of the committee.

R 340.1721b allows for individuals to attend the IEPC at the parent's discretion. However, there are not state or federal policies governing the procedure to be used at the Individual Educational Planning Committee for making the formal determination. If a voting procedure is used, it is suggested that only persons invited or appointed by the superintendent be allowed to vote.

R 340.1733-04
I-035
10/18/79

SUBJECT:

Minimum days/hours of instruction for handicapped students

SPECIFIC ISSUE:

What is the standard for determining the number of hours and days a special education program operates?

INTERPRETATION:

The number of hours and days the program operates will be determined on a building-by-building basis. It will be not less than the amount of instructional time, not including non-instructional or non-credit activities, provided to non-handicapped students.

Preprimary - 450 hours and 180 days

Elementary and Secondary - 900 hours and 180 days

SMI-SXI - 1190 hours and 230 days

In a free-standing building where only handicapped children are in attendance, the local or Intermediate District which operates the program may establish for the children in attendance the number of days and the number of hours per day, provided it is consistent with R 340.1 to R 340.13 of the Michigan Administrative Code.

R 340.1710-01
I-036
11/1/79

SUBJECT:

Multidisciplinary team for speech and language impaired

SPECIFIC ISSUE:

Is a full-team evaluation for children with only a speech and/or language problem required?

INTERPRETATION:

Children who have a speech impairment as their primary handicap may not need a complete battery of assessments but a teacher of the speech and language impaired would (1) evaluate each speech and language impaired child using procedures that are appropriate for the diagnosis and appraisal of speech and language disorders; and (2) where necessary, make referrals for additional assessments needed to make an appropriate placement decision. At the minimum, our rules require two persons for the evaluation of a speech handicapped child; a speech pathologist who meets state standards and approval and another Michigan approved person (see Interpretation No. 045).

R 340.1721(d)-02
I-037
11/6/79

SUBJECT:

Residential care

SPECIFIC ISSUE:

Must a school district provide room and board when it is needed to implement the programs and services specified in the IEP?

INTERPRETATION:

Yes. If a child assigned to a program is required to live in a place other than the home in order to benefit from the educational program, then the school district making the assignment through the individual educational planning process is responsible to pay for the cost as specified in section 380.1757 of the School Code of 1976.

Children who are placed in residential care facilities, including institutions operated by the Department of Mental Health, Department of Social Services and juvenile courts, are placed for the purposes of receiving treatment, therapy, or a suitable home. In these cases, the school districts are not responsible for covering the cost of residential care. Where the school is involved with another state agency in the recommendation of a placement into a residential facility, the school district should be careful not to include this in the Individual Educational Planning Committee report. If it is put in the IEPC report, it may be construed by a court or a hearing officer that the placement was for educational purposes and not for the purpose of seeking a suitable home or for treatment or therapy. Therefore, school districts are advised not to place this information in the IEPC report.

School districts are responsible for covering the cost of room and board or other residential care where it is needed in conjunction with the diagnostic evaluation that is provided away from the child's home. If at any time a school district sends the child away from home to receive diagnostic services (medical diagnosis, psychological or audiological evaluation, etc.), the district is responsible for covering the cost. In this case, there would be no documentation in an IEPC since diagnosis is provided prior to these meetings.

R 340.1722-04
I-038
11/7/79

SUBJECT:

"Resource Room" teacher; clarification; teacher of the speech and language impaired in a classroom with IEPC'd students; class size.

SPECIFIC ISSUE:

(1) Do students assigned to a "resource room" require an IEPC?

(2) May teachers of the speech and language impaired function as classroom teachers for the handicapped?

INTERPRETATION:

(1) Yes. All assignments are preceded by an IEPC meeting. State rules do not recognize a "resource room teacher;" rules require that handicapped children be assigned to special education programs and services by the superintendent of the operating district based on program and service determinations by the IEPC.

(2) Teachers of the speech and language impaired may not assume the roles of other types of Special Education personnel except on an interim basis if a deviation from the Michigan Department of Education has been granted or if serving a classroom program exclusively for severely language-impaired students under the provisions of Rule 340.1756.

R 340.1749-01
I-039
11/13/79

SUBJECT:

Teacher Consultant

SPECIFIC ISSUE:

If a handicapped child is placed in a regular classroom, is that classroom teacher automatically entitled to teacher consultant services?

INTERPRETATION:

No. Michigan Administrative Code Rules 340.1722 - 340.1725 establish the procedure for determining eligibility and assigning children to special education programs and services. The determination as to whether a handicapped child will receive teacher consultant services is made through the Individual Educational Placement Committee process. It is the responsibility of the superintendent to assign special education programs and services as needed. It is the superintendent's obligation to assure that a teacher consultant is assigned to work with handicapped children who are placed in regular classrooms if determined appropriate by the IEPC.

Special Education teachers may meet with regular education teachers on a periodic basis when their children are placed in regular education classrooms. Often such communication between the regular teacher and the special education teacher allows advisement of materials and techniques that will be effective in helping the handicapped child.

R 380.1177-01
I-040
2/1/80

SUBJECT:

Immunization of special education students

SPECIFIC ISSUE:

Which comes first, the special education mandate to serve or the immunization mandate?

INTERPRETATION:

The immunization mandate, because all children who are permitted to enter school in Michigan, regardless of their age, must provide evidence of immunization. If that evidence is not available, Rules 8 and 9 (of P.A. 368 of 1978) provide the standards to be followed in obtaining such information. It is further the interpretation of the Department of Education's health consultant and the Department of Public Health, Division of Immunization, that Section 9208 of the law as well as the rules specifically applies to all persons who are in attendance at school when the rules take effect. This means that all students who are enrolled must have on file either a certificate of immunization or an exemption.

Special Education Services Area review indicates no conflict in the requirements of P.A. 368 of 1978 and the requirement for mandatory services for handicapped children in the Michigan School Code of 1976, as amended.

R 340.1771-02
I-041
3/23/80

SUBJECT:

Directors of Special Education; part-time; reimbursement

SPECIFIC ISSUE:

Can a principal who works exclusively with programs for handicapped during the summer be claimed by reimbursement on the final cost report?

INTERPRETATION:

A principal who is on a 12-month contract would not qualify the school district for reimbursement based on R 340.1750 which requires that directors of special education be employed on a full-time basis.

A school district would be able to collect reimbursement on a general education employee who had approval as a director of special education and who was hired during the summer to work full time in special education, provided he or she had a separate contract and provided the contract clearly specified that the person was to work only in special education during the summer.

R 340.1783-01
I-042
5/2/80

SUBJECT:

Teacher Approval

SPECIFIC ISSUE:

Is there anything in the law which precludes a teacher with temporary certification from replacing a teacher who is fully certified in special education who has less seniority?

INTERPRETATION:

The Department of Education does not make interpretations in regard to teacher seniority and, therefore, we cannot directly respond to the question.

We would provide the following information which may be relevant to your issue. Section 380.1231 of the School Code of 1976 requires that districts hire and contract with "qualified teachers." R 390.1117 of the Michigan Administrative Code indicates that certificates and permits have "certain restrictions as to the nature of teaching for which the holder may be employed. The applicants and the employers shall be thoroughly familiar with the specific provisions regarding the validity of the several certificates." R 340.1781 - R 340.1789 contain the conditions for receiving approval (endorsement) as a special education teacher.

It is the interpretation of the Department of Education that a district must hire fully approved special education teachers unless a fully approved teacher is not available. If the district can verify that a fully approved teacher is not available, the Department will then issue a temporary approval for a candidate who is being considered for employment by the district.

R 340.1701-04
I-043
6/4/80

SUBJECT:

Ancillary services, contracting for

SPECIFIC ISSUE:

May a local or intermediate district contract with a public non-profit hospital for services for the speech and language impaired, occupational and physical therapy?

INTERPRETATION:

Yes. Section 380.6(7) of the School Code of 1976 authorizes such contracts and Rule 340.1701(1) defines the services. A school district which would seek to contract with such a public, non-profit hospital must

(a) determine that the hospital staff are qualified to provide the contracted services,

(b) develop a contract for service including LEA, ISD and outside agency, and

(c) request that the ISD include the agency in the plan.

R 340.1721-01
R 380.1711(i)(j)-01
I-044
10/1/80

SUBJECT:

Referral for special education programs and services

SPECIFIC ISSUE:

Questions related to the referral process.

INTERPRETATIONS:

1. What is a referral?

The term "referral" has two meanings, the most common one being a written notification that a person is suspected of being handicapped (R 340.1721). The other meaning of the term is a written statement that a handicapped person need a "change in educational status" (i.e., the student may need to add, delete or modify a special education program or service). Parental consent to evaluate is required for an initial referral, but is not required for a referral for a change in educational status. Both referrals lead to IEPC meetings which must be held within 30 school days {see 21c(2)}.

The term referral is also used in statute 380.1711(i)(j). Language therein mandates that parent consent is needed before a written report is given to the school and before an evaluation is conducted.

Once a referral is received from a member of the community, the school district will request the parents' permission to evaluate pursuant to rules 23a and 23b. The educational agency has 30 school days from the receipt of parent permission to the completion of the IEPC meeting. {R 340.1721(1), R 340.1721c, 380.1711(i)(j)}

2. Who can make an initial referral?

Any number of different people can refer a person suspected of being handicapped. These persons may include teachers, social workers, parents, licensed physicians, registered nurses, or representatives of other agencies. {380.1711(i)(j)}

3. What needs to be done upon the receipt of an initial referral?

Within ten (10) calendar days, the school district must inform the parents of receipt of an initial referral and request permission to conduct an evaluation. The education agency must give parents a written explanation of the agency's intent to evaluate. The notice must also inform the parents of their due process rights and provide additional information {R 340.1721(1)(c-d)} about special education. (R 340.1721)

4. Does an initial referral have to be signed by the parent?

No, a parent does not need to sign the initial referral. However, the school district cannot take action on the initial referral until the parents give written permission to conduct an initial special education evaluation or the district receives authorization to evaluate from a hearing officer. {R 340.1723a(2)(a)}

5. If a student is in special education and the teacher or parent wants an IEPC to determine if an additional special education program/service is needed, is a referral needed?

Yes. A referral is needed to request a change in educational status (i.e., to add, delete or modify special education program or service). The IEPC must convene within thirty (30) school days to consider this proposed change in educational status. It is suggested that the parents be informed of this referral and the expected action of the school district. No parental consent is needed unless personality tests or a medical evaluation is needed. {R 340.1721c(2)}

6. Are requests for services of a teacher of the homebound and hospitalized considered a referral?

No. Each school district has procedures for requesting this ancillary service pursuant to rule 46. If there is cause to believe that the student will be homebound or hospitalized for a year or more, the student must be evaluated under the provisions of R 340.1709. An IEPC must review the diagnostic data to determine if the student could benefit from special education programs or services. {R 340.1746; R 340.1701(c)(vi)}

7. Is a request for a general education evaluation considered a special educational referral?

No. Students who are exhibiting academic, social or behavioral problems may be seen by a school psychologist or a school social worker in order to provide information and support to the teacher and/or student. Students receiving these services do not require an IEPC. Special education reimbursed school psychologists and school social workers are authorized to provide counseling to the student and parents, recommend instructional and behavioral management techniques, and help the teacher in resolving the student's problem(s). If during this process there are indications that the student is handicapped, the school psychologist and/or school social worker must submit a referral. Once referred, the special education process as outlined in the rules is begun. {R 340.1701(c)(v)}

R 340.1102-01
R 340.1721a-01
R 340.1722d-01
R 340.1723a-02
R 340.1723b-01
I-045
10/1/80

SUBJECT:

Evaluation of handicapped and suspected handicapped persons

SPECIFIC ISSUE:

Questions related to the evaluation process.

INTERPRETATIONS:

1. Does the parent have to give consent in order for the educational agency to conduct an initial special education evaluation?

Yes. Consent for an initial evaluation must be obtained in writing from the parent or legal guardian. If the parent does not give consent, the public agency may request a hearing in order to secure the right to evaluate the child without parental consent. {R 340.1723a(2)(a); R 340.1723a(3)}

2. Is it necessary to get written permission for medical evaluations and personality tests?

Yes. Michigan law allows the parent the opportunity to refuse to allow psychologists to administer personality tests. Therefore, no personality tests can be given at any time without giving the parent notice and the opportunity to object to the test(s) being given. (R 340.1722d; R 340.1102)

3. Is it necessary to provide the parent with the name of each test to be given to the suspected handicapped person?

No. The parent must be informed of the type of tests that may be administered. If the evaluator has determined which instrument(s) will be used, then it is suggested that the parent be informed of the test by name when the parent is notified of the agency's intent to evaluate. The name and results of each test used by the multidisciplinary evaluation team to make a recommendation or used by the IEPC to make a decision of eligibility will be provided at the IEPC meeting. {R 340.1723b(1)(c)}

4. Who must be a member of the multidisciplinary team?

The rule states that the multidisciplinary team must have at least two members: one member must be a special education approved teacher or other specialist with knowledge in the area of the suspected disability; the other member may be any other qualified personnel in areas related to the suspected disability. Rules R 340.1703 - R 340.1714 identify the mandated members of the team. {R 340.1701a(e)} (See question 5 for exceptions)

5. Can a special education teacher be a member of the multidisciplinary team?

With the exception of the teacher for the speech and language impaired and a teacher consultant, the special education teacher cannot serve on the initial evaluation team for a student suspected of being handicapped. However, a special education teacher may be a member of the multidisciplinary evaluation team conducting the three-year comprehensive re-evaluation.

6. Does the definition of a psychologist include psychologists with a limited license issued by the Michigan Department of Licensing and Regulation?

No. A limited license is granted to a person who must work under the supervision of a person with a full psychology license. Persons with a limited license are not considered psychologists for the purpose of these rules. {R 340.1701a(b)}

7. What is the minimum composition of a multidisciplinary team evaluating a person suspected of being speech and language impaired?

The mandated member of the team is a teacher of the speech and language impaired. The second member may be the classroom teacher. Additional possibilities as a second member include another teacher of the speech and language impaired, an audiologist, a teacher consultant or a psychologist.

8. If a parent wants an independent educational evaluation, must the school district pay for it?

A parent can get an independent educational evaluation at their own expense whenever they wish. If the parent disagrees with the evaluation conducted by the public agency, the parent may request an independent educational evaluation at public expense. The district can either pay for this re-evaluation or they may request a hearing to show that their evaluation is appropriate and that the parents' request is unnecessary. If the hearing officer agrees that the public agency's evaluation is appropriate, the parent may still obtain the independent education evaluation, but it will be at the parents' expense. If the public agency is paying for the independent educational evaluation it shall make arrangements for the evaluation and the results shall be sent to the public agency which shall then share them with the parents at the IEPC. (R 340.1723c)

R 340.1701-04
R 340.1721c-01
R 340.1721e-01
I-046
10/1/80

SUBJECT:

Conducting IEPC meetings

SPECIFIC ISSUE:

Questions relating to responsibility to conduct IEPC meetings.

INTERPRETATIONS:

1. Who conducts the initial IEPC meeting for a student suspected of being handicapped?

The district of residence shall schedule the initial IEPC meeting except for students who are referred for ancillary or other related services or instructional services under the auxillary services act. (R 340.1721c)

2. Who is responsible to conduct an IEPC meeting for a student enrolled in a nonpublic school who may be receiving ancillary services?

The school district where the nonpublic school is located is responsible, under the ancillary services act, to conduct the IEPC and provide the service. (380.1296)

3. Who conducts IEPC meetings after the initial Meeting, for a student who is placed in a special education program outside of the district of residence?

The agency or district which operates the special education program develops the IEP. The IEP must be forwarded to the superintendent of the district of residence, who shall have 7 calendar days to approve or appeal the IEPC decisions. (R 340.1721e; R 340.1722b)

R 340.1721d-03
R 340.1721e-02
R 340.1722e-01
R 380.1751-01
I-047
10/1/80

SUBJECT:

IEPC meetings and placement of the student

SPECIFIC ISSUE:

Questions relating to placements and the IEPC

INTERPRETATIONS:

1. Can a handicapped student be placed in special education programs/services before the IEP is developed?

No. An IEP must be in effect before special education and related services are provided to a handicapped student. The appropriate placement for a given handicapped student cannot be determined until after decisions have been made about what the student's needs are and what will be provided. Since these decisions are made at the IEPC meeting, it would not be permissible to first place the student and then develop the IEP. {R 340.1721e(2)}

2. Can a handicapped student be placed out of state for special education programs and services?

No. However, the law does allow Michigan school districts bordering Ohio, Indiana, and Wisconsin to contract with bordering school districts in these states to fulfill their obligation to provide a free appropriate public education. {380.1751(1)(b)}

3. Who is responsible for writing IEPs for a handicapped student placed out of state by a public agency?

The district of residence in the placing state is responsible for writing the student's IEP and ensuring its implementation. (DAS Bulletin #64)

4. Can an IEPC determine that a student is to be placed at the Michigan School for the Deaf (MSD) or the Michigan School for the Blind (MSB)?

No. The committee can only determine that a student is eligible under R 340.1707 or R 340.1708, and that the student needs a full-time basic classroom program for the hearing or visually impaired. The IEPC can recommend MSD or MSB as an appropriate setting, but does not have the authority to assign a student to a specific school district or building. R 340.1742(2) and (3) and R 340.1743(2) and (3) outline procedures for admission to MSD and MSB. {R 340.1721d(3)}

5. If a handicapped student has been receiving special education and moves to another community, must the new school district hold an IEPC meeting before the student is placed in a special education program?

If the student's previous IEP is available and the operating district agrees to implement the IEP as written, an IEPC meeting need not be held before placing the handicapped student in a special education program. However, the new school district must conduct an IEPC meeting to review the student's former placement and school records and revise the IEP if necessary. This meeting should take place as soon as possible after the parents enroll their child in the new school. (R 340.1722e)

6. If the IEPC feels that additional information is necessary before a final placement decision can be made, is it permissible to temporarily place a student into a special education program?

Yes, provided that:

a) the student is eligible for special education programs;

b) an interim IEP has been developed specifying the conditions and timelines for the trial placement;

c) the parents are in agreement with the placement;

d) a specific timeline has been set to make a final determination regarding placement for the student; and

e) at the end of this temporary placement an IEPC meeting is convened to make decisions regarding the appropriate programs and services needed.

R 340.1721-02
I-048
10/1/80

SUBJECT:

Initiation of IEPC meetings

SPECIFIC ISSUE:

Can parents and teachers initiate IEPC meetings?

INTERPRETATIONS:

1. Can an IEPC meeting be initiated at the request of the parents?

Yes. The parent(s) has the right to submit a written referral requesting a change in the educational status of the child. The time from this referral to the IEPC shall not exceed 30 school days. If the parent feels that the child's placement or IEP services are not appropriate to the child, it is expected that the parent would, in accordance with agency procedures: a) call or meet with the child's teacher or school administrator and/or b) request that the agency hold another meeting to review their child's current IEP. The only exception is when the provision of R 340.1724(4)(d) applies. (R 340.1721c)

2. Can IEPC meetings be initiated at the request of the child's special education teacher?

If the special educator feels that a student's placement or IEP services are not appropriate to the student, it is expected that the teacher would, in accordance with agency procedures: a) call or meet with the parents and/or b) request that the agency hold another meeting to review the student's current IEP.

R 340.1721b-02
R 340.1721c-03
I-049
10/1/80

SUBJECT:

IEPC Participants

SPECIFIC ISSUE:

Questions regarding participants at the IEPC meetings.

INTERPRETATIONS:

1. Who is considered a representative of the public agency?

The public agency representative can be a special education teacher (this includes a teacher of the speech and language impaired), the principal, supervisor, or some other administrator--as long as the person serving in that capacity has the authority to commit district resources. Special education ancillary personnel who do not have teaching certificates cannot be considered a representative of the school district. It must be noted that decisions of the IEPC and the commitment of the agency to implement an appropriate program cannot be "vetoed" at a higher administrative level.

2. Can an IEPC meeting for a speech and language impaired student, or a student suspected of being speech and language impaired, be composed of a teacher of the speech and language impaired (representing the public agency), the student's regular education teacher and the parent? Further, can the teacher of the speech and language impaired also be the multidisciplinary team representative at the initial and Three Year re-evaluation meeting?

The answer to both of these questions is yes. If the representative of the public agency or the child's teacher was also a participating member of the multidisciplinary team, this person may act in a dual capacity and satisfy the requirement that a member of the multidisciplinary team be present at the initial and three-year IEPC meetings.

3. Can itinerant personnel employed by intermediate districts, such as teachers of speech/language impaired and teacher consultants act as representatives of the public agency at initial and/or annual IEPC meetings?

Itinerant personnel may act as the public agency representative at IEPC meetings only when they are qualified (see question #40) and have been designated by the local district superintendent or designee to act in that capacity, and hence have the designated authority to commit district resources.

4. Who may be considered the student's teacher at the IEPC?

   a) If the student is enrolled in regular education, at least one of the participants shall be a regular education full-time teacher to whom the student is assigned. At the initial meeting, it is suggested that one of the participants be a teacher who is qualified in the student's area of suspected impairment.

   b) For a student receiving special education only, the teacher will be the student's special education teacher.

   c) For a student being considered for potential special education placement, the teacher should be the student's general education teacher.

   d) For a preprimary aged child, the teacher should be a teacher appropriate for the student's age and ability. (R 340.1721b1)

5. Who must be the student's teacher at an IEPC meeting when the student has multiple regular education teachers?

Only one regular education teacher need be present. However, a copy of the IEP must be accessible to all staff responsible for implementing the IEP. A counselor or other non-instructional personnel are not to be considered as the student's teacher. {R 340.1722(5)}

6. Must all individuals working with the student be present at the IEPC?

No. Flexibility is given to the districts to determine the most appropriate personnel depending on the needs of the student. The composition of the committee may vary due to the purpose of the meeting.

7. Do the parents have to be in attendance?

No. An IEPC meeting can be conducted without the parents if the public agency has documented its attempts to convince the parents to attend the meeting. Examples of proper attempts would be phone calls, visitations or written correspondence. If the parents wish to participate but cannot attend the meeting, the public agency shall use other methods to insure parent participation, including conference telephone calls. If the parents are not in attendance, a copy of the IEP must be given to the parents. If it is an initial IEPC meeting parental consent must be obtained prior to placement. (R 340.1721c; R 340.1723a)

R 340.1701a-02
R 340.1721b-03
I-050
10/1/80

SUBJECT:

Legal guardians, adult handicapped students at the IEPC

SPECIFIC ISSUE:

Questions relating to legal guardians and adult handicapped students at the IEPC.

INTERPRETATIONS:

1. What is the role of a surrogate parent (legal guardian) at the IEPC meeting?

The term surrogate parent is used in federal legislation. According to the Michigan Federal Annual Program Plan the term means a legal guardian in Michigan. A surrogate parent (legal guardian) is a person appointed by a court or state agency to represent the interests of a handicapped student in the educational decision-making process when that student has no parent to represent him or her. The surrogate (legal guardian) has all of the rights and responsibilities of parents under the law.

2. Are the parents precluded from attending IEPC meetings when the student reaches the age of majority?

No. The parents may participate in the IEPC meetings after the student reaches the age of majority, if the handicapped person or the public agency invites them. {R 340.1721b(4)}

3. In a situation where a student has reached the age of majority and does not have a legal guardian, can the student's parents appeal the IEPC decision?

No. Under Michigan law a handicapped person, age 18 who does not have a legal guardian, acts on his or her own behalf. {R 340.1701a(h)}

R 340.1721e-03
R 340.1733-05
I-051
10/1/80

SUBJECT:

Content of the IEP

SPECIFIC ISSUE:

Questions related to annual goals and objectives

INTERPRETATIONS:

1. In addition to annual goals and short-term instructional objectives must performance objectives also be written?

Yes, after the student is assigned to special education programs and/or services the special education teacher and/or the provider of an ancillary service must write performance objectives based on the goals and short-term instructional objectives. These objectives must be developed in accordance with the student's needs in the cognitive, affective, and psychomotor domains with special attention to personal adjustment, prevocational, physical education, and vocational training. These objectives do not need to be developed with the parent but must be available to the parent and may be reviewed by the designee(s) of the Department of Education. {R 340.1733(e)}

2. Are the annual goals and short-term objectives written in the IEP to be for special education programs and services, general education, or both?

The IEP goals and objectives should focus on offsetting or reducing the problems resulting from the student's handicap which interfere with the student's learning and educational performance in school. The IEP does not have to include goals and objectives for regular education. When a handicapped student is placed in regular education, the student is expected to be taught from the regular education curriculum and have the same objectives as the non-handicapped students.

3. Must the annual goals and short-term objectives be written on the IEP?

The annual goals and short-term objectives are to be developed by IEPC participants at the IEPC meeting. Parents and school personnel may bring recommended written goals and objectives for consideration by the committee. This is good planning and indicates that some thought has gone into developing an individualized program. However, at a minimum, the goals and objectives agreed upon by the committee must be written onto the IEP. {R 340.1721e(3)}

R 340.1721d-04
R 340.1721e-04
R 340.1733(k)-06
I-052
10/1/80

SUBJECT:

Content of the IEP

SPECIFIC ISSUE:

Questions related to programs and services, physical and vocational education.

INTERPRETATIONS:

1. Must the IEP list all of the special education services a student needs, or only those that are available?

The IEP must specify all of the special education services necessary to meet the student's special education and related needs. {R 340.1721d(3)}

2. Must all of the services specified on the IEP be provided to the student?

Yes. The IEP is an agreement for services. The services specified in the IEP must be provided.

3. If a student receives more than one special education related service, must there be a separate IEP for each service?

No. Only one IEP should be written for each student in order that an organized, co-ordinated educational program can be developed. Only in this way can it be assured that all areas of concern are receiving remediation and that duplication of services does not occur.

4. Must physical education be included in each student's IEP?

Yes. Physical education must be considered in developing an IEP for each handicapped person. In the majority of cases handicapped students will receive physical education in the same manner as their non-handicapped peers. In these instances, simply note on the IEP that physical education is being provided by regular education and note this also in the section "extent of time spent in regular education." Many handicapped students will need an adaptive physical education program. Again, note on the IEP that physical education was considered and describe the adaptive program that will be provided; in these cases one or more annual goals and objectives should be written into the IEP.

In some instances, yearly assignment to continuous physical education is not appropriate. An example would be special education students enrolled in a regular education curriculum who are required to earn one credit in physical education over a three-year secondary program. In these types of circumstances, note on the IEP that physical education was considered but is not appropriate. {R 340.1733(k)}

5. Must vocational education services be listed in a student's IEP?

Yes. As with physical education, vocational education services must be considered for each handicapped student. If, after considering vocational education, the committee determines that vocational education is not needed or is not applicable then this decision should be specified on the IEP. If vocational education is needed, the vocational education alternative should be specified on the IEP. Either regular or adaptive vocational education for a student should be reflected on the IEP in the section entitled "extent of time spent in regular education."

6. Must the IEP specify the extent or amount of time for special education services or simply list the services to be provided?

The extent or amount of time for special education services must be stated in the IEP. Some standard of time must be indicated which is (1) appropriate to the specific services to be provided and is (2) understandable by all IEPC participants. For example, in speech and language, physical therapy or occupational therapy services, the IEP would indicate the number of sessions per week and the approximate length per session. Significant changes in the extent of services listed in the IEP cannot be made without holding another IEPC meeting. However, as long as there is no change in the overall amount of time, some adjustments in scheduling the services is acceptable without holding another IEPC meeting.

7. How is the extent to which the student will participate in regular education programs to be stated on the IEP?

This can be identified as a percentage of time, a specific amount of time, or identified by regular education class assignments.

8. Does the IEPC have to be reconvened if a class schedule changes?

The answer to this question will vary with the manner in which the district completes their students' IEPs. If the IEPC identified specific classes by title (e.g., civics; auto mechanics), and this is only a semester class, then a new IEPC must be convened to change the classes to home economics, typing I . . . On the other hand, if the IEP identifies the special education program and/or services and identifies the amount of time in regular education by percentage or by number of hours then an IEPC need not be convened.

If there is to be a change in the program that causes more or less time in special education then a meeting must be reconvened because a change in the student's time in special education is being suggested and the appropriateness of this proposal must be considered by the IEPC.

R 340.1722-05
I-053
10/1/80

SUBJECT:

IEPC - Least restrictive environment

SPECIFIC ISSUE:

Does the IEPC assign students to special education programs in the least restrictive environment?

INTERPRETATION:

No. The superintendent is responsible to assign handicapped students to programs and services which are operated within the superintendent's district. The superintendent is responsible for assuring that this assignment is in the least restrictive environment. The IEPC can assist the superintendent by recommending where the programs and services may most appropriately be provided, but they do not have the authority to assign a handicapped student to a particular school or teacher. The IEPC determines what is appropriate and the superintendent determines where the program or service is to be provided. (R 340.1722)

R 340.1701(e)-05
I-054
10/1/80

SUBJECT:

IEP - Confidentiality of information

SPECIFIC ISSUE:

Is the IEP subject to the confidentiality requirements?

INTERPRETATION:

Yes. The IEP is subject to the confidentiality requirements. In addition, under the Family Educational Rights and Privacy Act (FERPA), the IEP is considered to be an "educational record," and is subject to the same protections as other records relating to the student that are maintained by the public agency.

Under Section 99.31 of the FERPA regulations, an educational agency may disclose personally identifiable information from the education records of a student without the written consent of the parents if the disclosure is to "other school officials, including teachers, within the educational institution or local educational agency who have been determined by the agency or institution to have legitimate educational interests."

R 340.1721e-05
I-055
10/1/80

SUBJECT:

IEP

SPECIFIC ISSUE:

Is it permissible to integrate the IEP requirement with the individualized service plan requirements under other federal programs in which such plans are mandated (e.g., Medicaid and Title II), or must they be maintained as separate, distinct records?

INTERPRETATION:

In some instances when a handicapped child must have both an IEP and an individualized service plan, it may be possible to develop a single, consolidated document, provided that: (1) it contains all required information from both programs; (2) all necessary parties participate in its development; and (3) it includes an assurance that the requirements of each participating agency are met.

Examples of individualized service plans which might be integrated with the IEP are: (a) the Individualized Care Plan (Medicaid); (b) the Individualized Program Plan (Title XX); (c) the Individualized Service Plan (Title XVI, SSA, SSI); and (d) the individualized written rehabilitation plan (Rehabilitation Act of 1973). In instances where joint plans are written with non-educational agencies, the plan should clearly delineate the responsibilities of the school and the responsibilities of the other agency.

R 340.1722b-01
I-056
10/1/80

SUBJECT:

IEP - Section 53 students

SPECIFIC ISSUE:

Must the IEP written for students who are being funded under section 53 of the state aid act be forwarded to the student's district of residence for approval pursuant to R 340.1722b?

INTERPRETATION:

No. The intent of seeking approval from the district of residence (if different from the operating district) is to involve the district responsible for added costs in the planning process. The cost of special education for students covered under Section 53 is not billed back to the district of residence and therefore, there is no need to seek approval from that district prior to implementing the IEP.

R 340.1722a-02
I-057
10/1/80

SUBJECT:

IEPC - Assignment timeliness

SPECIFIC ISSUE:

How soon after the IEPC develops the IEP must placement and services begin?

INTERPRETATION:

After the IEPC meeting the public agency has 7 calendar days to inform the parent of their intent to appeal the decision(s) made by the IEPC or to inform the parent of their intent to implement the IEP. Thereafter, the parent has 7 calendar days to appeal or inform the district that they concur with the public agency's intent to implement the IEP.

If there are no appeals, the student's IEP must be implemented within 15 school days after the parent is officially notified of the school's intent to implement the IEP. However, if the parent, the district of residence representative (if other than the district of operation), and the district of operation representative are in agreement with the IEP, and no appeals are going to be made, the initiation of services may begin immediately. An initiation date may be later than 15 days if clearly specified in the IEP and agreed upon by the parents and the public agency. However, a projected initiation date may not be used to deny or delay services. (R 340.1722a)

R 380.1561-01
I-058
9/19/80

SUBJECT:

SESA interpretation of the use of a tutor to provide a private education

SPECIFIC ISSUE:

Can a parent remove his/her child from public education and provide a full-time tutor for his/her child and be in compliance with the General School Laws?

INTERPRETATION:

A tutor can be used to educate a handicapped student provided that:

a) The tutor is a properly certified teacher;

b) The teacher teaches from a comparable curriculum being used in the public schools.

REFERENCES:

MCL 380.1561 Compulsory attendance at public school; enrollment dates; exceptions

Attorney General's Opinion No. 5579

R 340.1746-02
I-059
12/15/80

SUBJECT:

Role of chiropractor regarding R 340.1746

SPECIFIC ISSUE:

a) Can a chiropractor refer a child suspected of being handicapped?

b) Can a chiropractor certify a person as homebound (R 340.1746)?

INTERPRETATION:

A chiropractor, in the best interest of his/her patient, can refer that patient for homebound instruction. Section 1711(j) of the School Code of 1976), requires the intermediate school district to:

> Receive the report of a parent or guardian or, with the consent of a parent or guardian, receive the report of a licensed physician, registered nurse, social worker, or school or other appropriate professional personnel whose training and relationship to handicapped persons provides competence to judge same and who in good faith believes that a person under 26 years of age examined by the professional is or may be handicapped, and immediately evaluates the person pursuant to rules promulgated by the state board. A person making or filing this report or a local school district board shall not incur liability to a person by reason of filing the report or seeking the evaluation, unless lack of good faith is proven.

Under the provisions of this section of the law, chiropractors are authorized, with permission of the parent or guardian, to refer handicapped persons to be evaluated for eligibility for special education programs and/or services. The district, upon receipt of the referral of a person suspected of being physically, mentally or emotionally impaired or learning disabled, must complete an evaluation and make arrangements for special education programs and services as needed by students determined eligible for special education.

For a handicapped person to qualify for services as "homebound" as prescribed in R 340.1746 of the Michigan Administrative Code, the person must be "certified by a licensed physician as having a medical handicap which requires the person to be confined to the home." It is the interpretation of the Department of Education that "licensed physician" as used here means an approved physician as defined in Section 16103 of the Public Health Code.

The school district is responsible to make a determination upon referral whether the student will qualify as physically, mentally, emotionally impaired or learning disabled or whether the student is temporarily homebound. This determination cannot be made upon the diagnosis from a chiropractor. Rule 340.1709 specifies the persons who are qualified to evaluate individuals suspected of being physically or otherwise health impaired. These persons include "orthopedic surgeon, internist, neurologist, pediatrician, or osteopathic internist." It was the intent of R 340.1709 to allow orthopedic surgeons, internists, neurologists, pediatricians, or osteopathic internists to determine if a person's physical condition or health impairment prevents school attendance so that school districts could immediately provide homebound service. Based on the report from the physician, the school district can determine if the child has a permanent disability, which might enable the child to become eligible for special education under R 340.1709. It was not the intent of the Department of Education in framing this role to allow chiropractors, podiatrists, ophthalmologists, or other persons who are licensed to provide limited diagnosis and treatment to determine eligibility for homebound and hospitalization.

Pending further interpretation from the Attorney General or court ruling, this is the interpretation of the Department of Education regarding the meaning of the words "licensed physician" as contained in R 340.1746 of the Special Education Code. If a chiropractor is providing diagnosis and/or treatment to a school age person and feels that the person should not attend school, the chiropractor should notify the patient of this fact and make referral to the medical doctor serving the patient who should do a physical examination and report to the school district his/her findings of the physical or health impairment preventing school attendance. The report of the physical examination constitutes certification by a physician and is used as a determination of eligibility for provision of homebound services under R 340.1746.

R 340.1757-01
I-060
12/15/80

SUBJECT:

Juvenile detention facilities

SPECIFIC ISSUE:

1. Who is responsible for providing an educational program for persons in juvenile detention facilities?
2. Does the public school district where the juvenile facility is located have to provide the program at the juvenile court facility or could the public school district provide the program in its own facility and transport the students from the court to its own facilities?
3. How is the educational program financed?

INTERPRETATION:

Prior to October of 1973, the juvenile courts were responsible for providing education to children in juvenile court facilities. In approximately 1972, a number of juvenile judges met with representatives of the Department of Education, indicating a need for funds to help offset the cost of operating the juvenile court facilities. There were provisions for the public schools to collect membership if they operated the program, but there were no other provisions to help the courts offset their costs. In order to help offset the costs of programs in juvenile detention facilities, R 340.1706 had a section written in it which would allow districts to classify children as emotionally impaired on a temporary basis while they were assigned to juvenile detention facilities. This provision then would allow the local and/or intermediate district to operate a program in cooperation with the juvenile detention facilities and to collect state reimbursement under special education, as well as membership reimbursement. This was the only way, at that time, the department had to get funds into the juvenile detention facilities to help the courts meet their obligation of providing education to children under their jurisdiction.

It was not the purpose or intent of this rule to oblige school districts to service children in juvenile detention facilities. It did provide an option to those districts that wish to work cooperatively with the juvenile courts to help the courts meet their obligation and to provide an additional resource to the courts.

Persons in juvenile detention facilities have a right to an education. The court is responsible for the provision of the educational program. The legal reference is R 400.154 which is a part of the requirements for licensing of the child caring institutions and child placing agencies.

> R 400.1754 Educational Program
>
> An agency shall provide an educational program for children of school age. If the agency is an institution and the educational program is conducted on campus, the program shall be designed to meet specific needs of the children and competent instruction shall be provided in conformity with requirements of the State Department of Education.

If the person is handicapped, the person has a right to appropriate educational programs and services. The legal reference is R 340.1721d of the Special Education Code as amended August 13, 1980.

> Rule 21d(2)(a). Determine the eligibility of persons suspected of being handicapped or review eligibility after the 3-year evaluation. A person is eligible, as a statutory right, for special education programs and services if the person is identified as having 1 or more of the impairments defined in part 1 of these rules, is not more than 25 years of age as of September 1 of the school year of enrollment, has not completed a normal course of study, and has not graduated from high school. A person reaching the age of 26 years after September 1 is entitled to continue in a special education program or service until the end of that school year.

Educational programs for persons in juvenile detention facilities are to be provided to youth whether they are handicapped or not.

Even though the court is responsible to provide the educational program, R 380.628 allows the intermediate school board to establish a school for persons who live in a juvenile detention facility. The rule is optional in that the word "may" precedes the body of the rule. It follows:

> R 380.628.
>
> Schools for children in homes operated by juvenile division of probate court; powers of board as to real or personal property. (M.S.A. 15.4628)

> Section 628. The intermediate school board may:
>
> (a) Establish a school for persons of school age who live in children's homes operated by the juvenile division of the probate court or who live at home but are assigned to the school by the juvenile division of the probate court. The intermediate school board may lease or purchase sites; build, lease, or rent housing facilities; and employ the personnel necessary to operate the schools. The intermediate school board may exclude a pupil for persistent misbehavior; classify and promote pupils for instructional purposes; and do all things necessary to the proper conduct of the school.

Based on this rule, the agency can either operate the educational program at the detention facility or transport the students to a school for instruction. If the court wants the program to operate in the detention facility, it is the responsibility of the court to provide classroom space that will meet health and safety standards.

If the handicapped persons are being served at the facility and the intermediate school district operates the program, costs for students who are residents of the intermediate school district may be reimbursable as provided by Section 52 of the State Aid Act. Students who are not residents of the intermediate school district may be reimbursed by Section 53.

Section 24 of Article 2 of the State Aid Act stipulates the conditions for receiving membership for out-of-district residents and provides directions for computing membership. It follows:

> Section 24.
>
> A pupil under court jurisdiction who is placed in a private home or in a private or public institution located outside the district in which the pupil's parents or legal guardians reside may be counted as a resident of the district of attendance if other than the district of the pupil's parents or legal guardian. The pupil shall be counted as 1-1/2 memberships. The total membership of these pupils shall be computed by adding the membership days attended by the pupils before April 1 of the current school year and dividing the total by the number of days in the school year of the district before April 1 of the current school year. The membership thus obtained shall be certified by the district to the department, which shall adjust the total membership of the district accordingly in determining the school aid to be paid during the current fiscal year.

In summary:

Education programs for youth detained in juvenile facilities are mandatory. The court is responsible to provide an educational program for children of school age. These students may be served at the detention facility or in a school within the operating district with the exception of children who have been expelled. If the public school operates the program, funds are available in Sections 21, 24, 52, and 53 of the State Aid Act to offset educational cost.

R 340.1733-07
I-061
12/15/80

SUBJECT:

IEPC authority to shorten the school day for handicapped students

SPECIFIC ISSUE:

Can an IEPC shorten the school year to a point less than 180 days or 900 clock hours? If so, what is the rationale that must exist?

BACKGROUND:

The rule being clarified in this official interpretation is R 340.1733(h). It follows:

> (h) Special education programs and services shall be provided for at least the minimum number of hours and days of teacher-pupil contact in conformance with the child accounting rules, being R 340.1 to R 340.13 of the Michigan Administrative Code, but the number of hours and days for a special education program or service shall be not less than those required for regular education programs.

The pupil accounting rule pertinent to special education programs and services is R 340.1016. It follows:

> (6) A school day for pupils enrolled in special education programs shall be determined by the Department of Education for each school district operating a program based on the specific operational conditions of the school district and the needs of the children in special education programs. A school district making application for Department of Education approval to operate a special education program shall recommend the length of the school day for each type of special education pupil in its program.

The following table portrays the minimum number of hours and days that are required for special education programs for each disability.

PROGRAM REQUIREMENTS	DISABILITY	MINUTES, HOURS & DAYS REQUIRED
Preprimary classroom programs	All but SMI & SXI	180 days 450 hours
	SMI & SXI	230 days 1150 hours
Special Education Programs for Handicapped Students aged 6 - 25	All except SMI & SXI	180 days 900 hours
	SMI & SXI	230 days 1150 hours
	Homebound or Hospitalized	2 non-consecutive 45-minute periods a week of direct instruction

INTERPRETATION:

The individualized Educational Planning Committee can determine that a handicapped person's school day be shortened, or that the number of days of instruction be less than 180, or 230 in the case of severely mentally impaired, or severely multiply impaired. The rationale for reduction is that full day is not appropriate for the handicapped person to receive a free and appropriate public education. The law requires school districts to offer programs on a full-time basis. Therefore, administrative convenience is not a justifiable reason for shortening a child's school day. The IEPC report must include or be accompanied by a rationale which clearly explains why a full school day is inappropriate and contain supporting data from the members of the planning and placement committee. Handicapped children who are preprimary aged must have a 180-day, 450-clock hour program available to them. However, the IEPC may recommend that a shorter school day or year is appropriate.

It is also to be understood that the superintendent and the parent have the right to request a hearing if either disagrees with the IEPC's decisions.

R 380.1311-01
I-062
12/15/80

SUBJECT:

Suspension and expulsion

SPECIFIC ISSUE:

What procedures are required to implement 380.1311 of the General School Law of 1976.

INTERPRETATION:

The rule in question follows:

380.1311 Suspension or expulsion of pupils; grounds; evaluation of handicapped pupils. M.S.A. 15.41311

> Sec. 1311. The board may authorize or order the suspension or expulsion from school of a pupil guilty of gross misdemeanor or persistent disobedience when in the board's judgment the interest of the school may demand the authorization or order. If there is reasonable cause to believe that the pupil is handicapped, and the school district has not evaluated the pupil in accordance with rules of the state board, the pupil shall be evaluated immediately by the intermediate school district of which the school district is constituent in accordance with section 1711.

The responsibility for immediately evaluating a person suspected of being handicapped rests with the intermediate school district.

The intermediate school district outlines in Section 1.4 of their plan the type and amount of diagnostic services that are directly operated within the intermediate district or are purchased or contracted for from outside the ISD.

The ISD also outlines in their plan (Section 1.3) the procedure for securing written parental permission prior to evaluation. Therefore, the ISD plan presents the procedure to secure parental permission and to evaluate persons suspected of being handicapped with the responsibility being with the intermediate school district.

The suspension,pending evaluation, cannot exceed 10 days. If, for reasons beyond the school's control, the child cannot be evaluated within 10 days, the district should request an extension to the 10-day time line using the procedure in the attached document.

The due process requirements are presented in the special education rules effective August 13, 1980 regarding the permission to evaluate and the hearing procedures if permission is not granted. Due process requirements are addressed in the Goss vs. Lopez and the Wood vs. Strickland Supreme Court decisions (attached).

SUMMARY:

The ISD is responsible to see that the student is immediately evaluated. This evaluation may be carried out by the ISD, the local education agency or a contracted third party.

Parent permission to evaluate must be secured. Due process procedures relative to the refusal of permission to evaluate are outlined in the special education rules. Due process procedures for suspension and expulsion are outlined in precedent-setting Supreme Court decisions.

R 380.1756-01
I-063
12/15/80

SUBJECT:

Transportation of disruptive special education students

SPECIFIC ISSUE:

What procedures are school districts to use for suspension and/or exclusion of disruptive special education students on school busses?

INTERPRETATION:

The law in question is Section 380.1756 of the School Code of 1976 - Transportation (M.S.A. 15.41756). It follows:

Section 1756. The board of a local school district shall provide by contract or agreement for the transportation of a handicapped person who would otherwise be unable to participate in an appropriate special education program or service operated or contracted for by the local school district under section 1751, except for a handicapped person in residence at facilities operated by the Department of Mental Health or the Department of Social Services. The Board of a school district may provide for weekend transportation of a handicapped person in residence at the Michigan School for the Blind and the Michigan School for the Deaf.

If transportation is required as a condition for the handicapped person to attend school, expelling the child from transportation in this circumstance is also expelling the child from school; therefore, the procedure for expulsion stated in 380.1311 of the Michigan Administrative Code must be followed, and the student must be given all due process rights in regards to this procedure. Chapter six of the special education guidelines provides further information in regards to expelling of the student.

Suspension or expulsion from bus service is not considered denial of educational rights if a handicapped student does not require special transportation but is getting bus service because he or she lives more than two miles away from the school or is included as part of a court order bussing program for desegregation. In this circumstance, the district must apply its policy equally to all students riding the bus, including students who happen to be assigned to special education programs.

If a handicapped student, who requires special transportation in order to benefit from education, exhibits behavior that is a threat to the student's own safety or to the safety of others or to the safety of the vehicle operator, and the student's behavior cannot be controlled by educational techniques, the school may, as a last resort, expel the child. Prior to taking this action, the Department of Education recommends that the district consider all of the following alternatives:

1. Traditional methods and means of transporting students (regular school bus).
2. Special Education transportation including the considered use of non-abusive restraining devices consistent with IEPC recommendations, i.e., seat belt, harness.
3. Employment of a transportation aide to supervise the student en route.

Another option would be the contracting and reimbursing of parents if they volunteer to transport their child. Parents may not be required to provide transportation.

R 340.1723-01
I-064
12/15/80

SUBJECT:

I.Q. scores on IEPC/IEP forms

SPECIFIC ISSUE:

Can I.Q. scores be entered on IEPC and IEP forms?

INTERPRETATION:

Administrative Rule 340.1723b(1)(b) entitled "Content Notice" follows:

> (b) A description and explanation of the action proposed or refused by rule number and officially designated title, an explanation of why the agency proposes or refuses to take the action, and a description of any options the agency considered, including the reasons why those options were considered or rejected.

The IEPC is to determine eligibility for special education programs and services. The following rules specifically set parameters in the area of intellectual assessment:

R 340.1703 Determination of severely mentally impaired
R 340.1704 Determination of trainable mentally impaired
R 340.1705 Determination of educable mentally impaired

The data available to the IEPC in considering persons eligible under the above rules must include test scores either in the form of intelligence quotients or deviation scores. This must be written into the IEPC report.

In other handicapping areas, it is not mandated that intellectual assessment be used and recorded on IEPC or IEP forms, but it is not a violation of state or federal regulations to do so. If the school district believes this information is pertinent in determining eligibility status or in planning a handicapped person's individualized educational program, then noting the I.Q. score is appropriate.

R 340.1738-02
I-065
1/3/80

SUBJECT:

Determination of the school calendar for special education programs without a general education standard

SPECIFIC ISSUE:

1. If the program is an ISD program and the ISD runs only special education programs (no general education) so that there is no general education comparison, where does the ISD draw a general education comparative standard?
2. In center or central programs where there is no general education school day to compare can we make a per day determination or do we have to wait until the school year is over and add up the total clock hours and determine no violation or violation?
3. When does the official school year begin and end?

BACKGROUND:

Only one policy statement related to the above request for clarification has been issued by SESA. This is dated October 7, 1976. A portion of the policy statement follows:

> If a district is operating a self-contained program for handicapped children, that is, a program in a free standing building where only handicapped children are in attendance, then the local or intermediate district operating this program may establish for the children in attendance the number of days and the number of hours per day of instruction, provided that such assignment is consistent with R 340.1 to R 340.13 of the Michigan Administrative Code. For example, if an intermediate district is operating a program for the trainable mentally impaired servicing all local districts, the intermediate district may establish for the trainable program 180 days of instruction and 900 clock hours - except for programs for the severely mentally impaired operated under R 340.1738 and programs for the severely multiply impaired operated under

R 340.1748 of the Special Education Code, in which case, the program shall be for 230 days and 1,150 clock hours of instructional activities.

INTERPRETATION:

If the program is operated by the ISD and no general education program exists for comparison, the length of the school day and school calendar shall be determined by the intermediate school district board in accordance with pupil accounting rules,being R 340.1 to R 340.12 and R 340.1733(h).

School districts are required to determine the length of the school year (MCL 380.1284). Each center or center program should have a school calendar established at the beginning of the school year which shows the number of days in operation, and identifies any day on which there will not be a full day of school. Using the school calendar, it can be determined if a school district plans to operate a minimum number of hours and days specified in law and rule.

The school year begins on July 1st and ends the following June 30th.

R 340.1722d-02
I-066
12/15/80

SUBJECT:

Re-evaluation

SPECIFIC ISSUE:

1. What course of action should a school take when parents refuse to allow the school to carry out the re-evaluation responsibility in R 340.1722d?
2. What are the parents' rights after the evaluation is conducted and the results are discussed at an IEPC meeting?

INTERPRETATION:

The three-year re-evaluation requirement is mandated in R 340.1722d. The school district is not required to obtain parental consent for this re-evaluation.

However, parental permission is required before a handicapped student is seen by a physician or is given a personality test (R 340.1702). If the ISD plan stipulates that parent permission is necessary, then it must be secured. School districts are to inform the parent of the required re-evaluation and of the intent to discuss the results of the re-evaluation at an IEPC meeting.

If, after the evaluation data is collected, discussed and placed into the child's educational records, the parent believes that information regarding the re-evaluation results is inaccurate or misleading or violates the privacy or other rights of the child, the parent may request the participating agency to amend the information (R 340.1867). In the event that a parent chooses this course of action, the rules under Confidentiality of Information in the special education rules being R 340.1861 - .1873 are to be followed.

R 340.1733-08
I-067
2/6/80

SUBJECT:

Work study coordinator's responsibility

SPECIFIC ISSUE:

When the intermediate school district provides the services of a work study coordinator to the local districts, is that person responsible for an I.E.P. and an individualized curriculum plan as well as the written work study plan or would the work study plan be the only plan needed?

INTERPRETATION:

Two documents are required. These include an IEP and a work study training plan. Each handicapped student must have an individualized education plan (IEP). This plan must include a statement of annual goals and short term instructional objectives. If the student is going to participate in a work study program, it is recommended that the work study coordinator be invited to the IEP meeting.

There must be a written training plan which includes specific performance objectives for each student participating in a work study program. Chapter 8 of the guidelines for Special Education Programs and Services in Michigan (revised edition) presents information on work study requirements.

R 340.1749-02
I-068
2/12/81

SUBJECT:

Assignment of students to teacher consultants

SPECIFIC ISSUE:

Can a handicapped student be assigned to any educator with teacher consultant status or must a teacher consultant with approval in the area of the student's disability be assigned to the child?

INTERPRETATION:

The IEPC is responsible to determine the special education programs and services which are needed to provide the handicapped student with a free and appropriate education. If a handicapped person needs a teacher consultant service, that need should be reflected on the IEPC form, with the accompanying Rule 340.1749.

Assignment of staff to special education students is an administrative function. The superintendent is responsible to assign the handicapped student to special education programs and services. If the IEPC specifies a teacher consultant with a specific special education approval be assigned to the student, then such assignment shall be made by the superintendent. If, however, the IEPC is non-specific, the superintendent can assign any teacher consultant to the student and need not indicate the approval area of the teacher consultant in the notice to the parent.

R 340.1749-03
I-069
12/15/80

SUBJECT:

Teacher consultant services for emotionally impaired persons

SPECIFIC ISSUE:

1. Can a teacher consultant serve an emotionally impaired student in his/her home setting in a tutorial or other capacity?
2. Can a teacher consultant for emotionally impaired serve an emotionally impaired student in a private or public psychiatric hospital setting?
3. Can a teacher consultant serve such a student at home while he/she is awaiting placement in a psychiatric hospital?
4. Can a teacher consultant serve such a student at home while he/she is awaiting placement in an educational program at a school site?

INTERPRETATION:

1. Rule 340.1749(e) allows the provision of teacher consultant services to handicapped persons in their home. However, the home cannot be substituted for a school environment simply because the student is emotionally impaired.

2. Yes. An IEPC must determine that the teacher consultant support service is needed to provide the person with a free and appropriate public education.

3. Yes. An IEPC must be convened to determine that the student cannot function in school. It is the responsibility of the school district to determine if the condition is severe enough to keep the child from attending school. This meeting shall be when a psychiatrist recommends that a child cannot be in school. The IEPC must document all attempts to serve the EI student in the public school environment.

   The minimal alternatives to be addressed are:

   A. Placement in a self-contained EI Program.

   B. Placement with a reduced school day and/or a reduced number of days per week.

   Besides A and B, other alternatives unique to the local school district may be considered.

   In the event that alternatives have been tried and found to be inappropriate, the student may be served at home while awaiting placement in a psychiatric hospital. The only professionals who can provide the home service to these students are a teacher with an endorsement in EI or a teacher consultant with an EI endorsement.

   It is recommended that placement in the home be reviewed every 30 calendar days to determine if the home continues to be the student's least restrictive environment.

4. No handicapped student is to be "at home while he/she is awaiting placement" within the public school delivery system. The student is to remain in his current status in general education or special education until the appropriate placement is effectuated.

R 340.1736-01
I-070
2/1/80

SUBJECT:

Clarification on the Role, Function and Use of Teacher Aides and Instructional Aides

In August, the Michigan Association of Intermediate Special Education Administrators asked us to clarify the interpretation of the Michigan Administrative Code as it relates to the role, function and use of teacher aides and instructional aides.

R 340.1736 of the Michigan Administrative Code authorizes school districts to employ paraprofessional personnel including "teacher aides" and "instructional aides." A "teacher aide" is a paraprofessional who works under the direct supervision of the teacher or instructor. There are no definitions or role responsibilities found in the Michigan Administrative Code. The State Board of Education, however, has defined by policy the role and responsibility of a teacher's aide. Attachment A contains a copy of the State Board of Education policy on the Utilization of Noncertified Persons in Elementary and Secondary Schools. This position, as approved by the State Board of Education on September 26, 1972, provides the parameters under which teacher aides may perform instructional and noninstructional duties.

"Instructional aide" is defined as a paraprofessional who works under the supervision of an approved special education teacher in programs for the severely mentally impaired (R 340.1738), the trainable mentally impaired (R 340.1739(b)(ii)), and programs for the severely multiply impaired (R 340.1748). Instructional aides may provide instructional and noninstructional duties assigned by the teacher consistent with the State Board of Education policy found in Attachment A. Instructional aides may not independently supervise a special education program and may not provide services beyond those authorized for teacher aides under the Board policy.

Qualifications of Teacher Aides and Instructional Aides:

R 340.1793 establishes qualifications of paraprofessional personnel and R 340.1794 establishes specific qualifications for instructional aides within this category.

As indicated in Rule 94, instructional aides must be a high school graduate or equivalent with a minimum of 2 years successful experience as an aide in a day care training program or trainable classroom, or equivalent experience. This rule authorizes a second option (Rule 94(b)) for meeting this training requirement by completing advanced training in an approved program operated by a community college or a degree granting institution. This second option is not presently available since there has been no community college or degree granting institution that has requested State Board approval.

Reimbursement of Aides:

Aides with instructional duties will qualify for special education categorical reimbursement if all the following conditions are met:

1. Aides with instructional related duties for special education must be under the immediate full-time supervision of an approved special education teacher.

2. Aides with instructional related duties must spend 100 percent of their time working with students who have been determined eligible for special education through the educational planning and placement process.

   Health care aides, bilingual aides, program assistants, and an aide assigned to each curriculum resource consultant will be reimbursed, provided these persons are working 100 percent of their time under the immediate supervision of special education reimbursed professional personnel.

Summary:

Noninstructional aides include bilingual aides, health care aides, program assistant aides, and approved consultant aides. Noninstructional aides provide supportive services to special education personnel, but are not involved in the direct instruction of special education students.

This review indicates that there is no difference in the role and function between teacher aides and instructional aides. While there is no difference in the role or function, the present rules do require special qualifications for aides assigned to programs for the severely mentally impaired and severely multiply impaired and aides assigned to programs for the trainable mentally impaired using the optional delivery system of one teacher and three instructional aides with the maximum of 30 pupils.

Chart 1 outlines various classes of special education aides, their qualifications and related responsibilities.

Attachment B contains common questions and answers in regard to the role and responsibility of teacher aides.

UTILIZATION OF NONCERTIFICATED PERSONS IN ELEMENTARY AND SECONDARY SCHOOLS

(Approved by the State Board of Education Sept. 28, 1972)

The rules governing the certification of Michigan teachers require that teachers be certified.

Teacher aides are not certified.[1]

Teacher aides may be assigned to: (1) perform noninstructional duties, or (2) assist in instructional related activities.

1. Responsibility for day-to-day instructional activities shall rest with certificated teachers.
2. School districts may employ noncertificated personnel for:
   a. Noninstructional Duties

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[1] Certification Code Rule 5 (2) provides that "A teacher aide, classroom assistant, secretary to instructional personnel or other paraprofessional person legally employed in a noninstructional capacity need not be certificated as a teacher . . ."

(1) Maintenance and disciplinary activities in lunchrooms and on playgrounds and in other school settings[2]

(2) Traffic control to protect children crossing streets on the way to and from school[3]

(3) And many others as judged appropriate by employing school districts.[4]

b. Instructional Related Duties

(1) Complementing instruction (i.e., assisting the teacher during the lesson by helping pupils who may be having difficulty in understanding or in keeping up with the class)

(2) Supplementing instruction (i.e., assisting the teacher by working with individuals or small groups of pupils on follow-up activities specified by the teacher)

(3) Reinforcing Instruction (i.e., assisting the teacher by administering under supervision and direction, remedial or drill activities for individuals or small groups).

3. All noncertificated personnel engaged in complementing, supplementing or reinforcing instruction shall be under the meaningful direction and supervision of a certified classroom teacher.

4. Teacher aides may not be given full responsibility for instruction. A certificated teacher must assign and must supervise activities performed by teacher aides, and must provide meaningful direction. For example:

   a. A certificated teacher must be present during instructional activities each and every school day.

   b. A certificated teacher may sometimes be temporarily absent during the school day but may not always nor even usually be absent.

   c. A certificated teacher always must be responsible for the assigned instruction of a classroom.

5. All noncertificated personnel engaged in noninstructional duties shall be under the meaningful direction and supervision of a school administrator or his designate.

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[2] Attorney General Opinion No. 3647.

[3] Attorney General Opinion No. 2610.

[4] Certification Code, Rule 5 (2).

Relevant statute:

> P.A. 252, the State School Aid Act of 1972, Section 103 provides that "A district shall not be allotted or paid any sum under this act for the number of pupils in membership in excess of a ratio of 34 pupils to 1 teacher . . . For the purpose of this section, a teacher means an employee of the district holding a valid Michigan teacher's certificate."

SUBJECT: Questions and Answers Regarding the Use of Teacher Aides in Special Education Programs

Question 1: Rule 38 says that instructional programs for the severely mentally impaired "shall consist of at least one instructor or teacher and four instructional aides for a maximum of 24 pupils, with an average ratio of one instructional aide for six pupils." Does this mean that it is up to the teacher to determine the number of pupils that will be served by an instructional aide so long as the average ratio for the classroom does not exceed six pupils?

Response 1: Yes. Compliance will be determined by dividing the total number of students by the number of aides. If the resulting ratio is six or less, the program will be in compliance.

Question 2: If a TMI classroom is required to exceed the maximum of 15 students, could this be done by assigning a second aide to the teacher?

Response 2: Yes. A TMI program can have one "lead teacher" and two aides and service a maximum of 20 persons provided the aides meet the qualifications for an instructional aide defined in Rule 340.1794.

Question 3: Rule 38 and Rule 48 indicate that programs will be under the supervision of an "instructor" and Rule 39 indicates that a program for the trainable mentally impaired should be under the supervision of a "lead teacher." What is the definition of an instructor or a lead teacher?

Response 3: The term "instructor" or "lead teacher" as used in these rules refers to a person who is approved to teach special education programs and services.

Question 4: Rule 94 requires that instructional aides be high school graduates or the equivalent. What is meant by the equivalent to high school graduation?

Response 4: The successful completion of a general education development exam (GED) or an associate degree would be acceptable equivalents. Evidence from a college or university of acceptance into an associate or baccalaureate degree program are also acceptable. In these cases, college entrance exam scores and life experiences have been considered equivalent requirements.

Question 5: Rule 94 indicates that instructional aides must have two years experience as an aide in a trainable program or equivalent experience. What is equivalent experience?

Response 5: Equivalent experience includes working as a child care aide for the Department of Mental Health, working as a day care aide in programs for the severely mentally impaired operated by a Community Mental Health Board, or working as a program assistant or aide in programs for the trainable mentally impaired, severely mentally impaired or severely multiply impaired. The authorization for persons who were provided service under the employment of the Department of Mental Health or the Community Mental Health Boards is taken from the intent of the rules. When the rules were originally written, "Day Care Training" programs were operated by Community Mental Health Boards and not by public school programs.

Question 6: What criteria does the department use to approve community college or degree granting institution programs for advanced training of instructional aides? What institutions are currently approved by the department?

Response 6: Community colleges or other degree granting universities must submit their program outline to the Department of Education for review and approval. At the present time, no institution of higher learning has requested to have a program for instructional aides approved by the department.

Question 7: The existing rule does not "grandfather" all former aides who were employees of the Department of Mental Health when the intermediate district took over the SMI programs. Some of these aides may not meet the high school graduation requirements in the rule, but are outstanding individuals with SMI students. May they be considered as instructional aides?

Response 7: Although there are no provisions in the rules for this to occur, a district may document experience and competency via a deviation request.

Question 8: On the SE-4350 and DS-4096 forms, districts are asked to list instructional aides and program assistants in the category under aides. If a teacher aide ratio is computed, it will exceed the ratios established in the rules of these categories. In the past, the Department of Education staff have sent the forms back for correction when this has occurred. Can a change be made in the forms or procedures for handling the inclusion of program assistants to eliminate this problem?

Response 8: The department will no longer be using the SE-4350 form. Similar data will be recorded on the final cost report (Form DS-4096); however, the department will no longer be using these forms for checking the teacher/aide/student ratio. This will be done by on-site monitoring teams.

Although the department is requesting information on the number of professionals, aides, and clerical staff for statistical purposes, an effort will be made to differentiate between these paraprofessional categories.

Question 9: Rule 38 and Rule 48 authorize the use of "program assistants." What are "program assistants?"

Response 9: Program assistants are noninstructional aides who provide support service to the teacher and instructional aide. These services include feeding, lifting, supervision of children to and from the laboratory, monitoring children during lunch hour and on the playground where these activities are not part of the instructional day, helping children on and off the bus, and so forth.

Question 10: Is there a maximum number of program assistants a district may employ?

Response 10: No. A maximum number has not yet been established.

Question 11: Relative to Rule 94, specifically related to the two-year experience requirement for instructional aides, does 18 months of experience (based on 9 months per school year) fulfill this two-year experience requirement?

Response 11: Yes.

Question 12: What is the Department's procedure on granting deviations for the employment and reimbursement of aides not identified within R 340.1736?

Response 12: Where there is identification of extreme hardship or an emergency situation, the following types of deviation requests have individually been reviewed and granted:

1. Physically handicapped persons who have little or no mobility and who needs the aide to move them from class to class, or to otherwise provide services that are needed for the handicapped person to be integrated into general education programs.
2. An aide to be assigned to a severely emotionally disturbed child whose behavior is dangerous to self or others to the extent that an aide must be assigned full time to be with the child or others.

School districts which are granted a deviation to hire a teacher of the speech and language impaired to operate a preprimary classroom program, may hire an aide for that teacher without further approval from the Department of Education.

School districts may hire one health care aide per professional to work with the occupational, physical therapists or school nurse, bilingual aides to work with the diagnostic team and instructional aides to work with the curriculum resource consultants, without prior approval. However, districts must include a job description along with the final cost report, verifying that these people are working full-time and are providing activities as provided for in R 340.1736.

(Source) Memo to the field, dated December 6, 1978 from Murray O. Batten.

QUALIFICATIONS AND RESPONSIBILITIES OF SPECIAL EDUCATION REIMBURSED AIDES

	AIDES WITH NONINSTRUCTIONAL DUTIES			AIDES WITH INSTRUCTIONAL DUTIES	
	Bilingual Aides	Health Care Aides Aides	Program Assistants	Teacher Aide	Instructional Aide
QUALIFICATIONS	Qualifications established by the employing district consistent with requirements established in the ISD Plan. (Rule 93)	Qualifications established by the employing district consistent with requirements established in the ISD Plan. (Rule 93)	Qualifications established by the employing district consistent with requirements established in the ISD Plan. (Rule 93)	Qualifications established by the employing district consistent with requirements established in the ISD Plan. Teacher aides are required in TMI programs and are optional in EMI, EI, HI, VI, LD and POHI classroom programs. (Rule 93)	High school graduate, or equivalent with minimum of 2 years of successful experience as an aide in a day care training or TMI program or equivalent experience and be recommended by an administrator who has supervised the work of the aide for at least one year. Required for SMI and SXI programs. (Rules 93 and 94)
RESPONSIBILITY	May be employed to assist the evaluation personnel when evaluating students whose native language is other than English. (Rules 35 and 93)	May be employed to serve in a supportive capacity to the nurse, physical therapist or occupational therapist. Examples: Bring students to and from therapy, helping dress students. Health Care aides may not provide direct therapy; however, they may assist the therapist. (Rules 44 and 93)	May assist the teacher or instructional aide(s) in the feeding, lifting and individualized care of severely or multiply impaired pupils. (Rules 38, 48 and 93)	Complementing instruction (i.e., assisting the teacher during the lesson by helping pupils who may be having difficulty in understanding or in keeping up with the class). Supplementing instruction (i.e., assisting the teacher by working with individuals or small groups of pupils on follow-up activities specified by the teacher). Reinforcing instruction (i.e., assisting the teacher by administering, under supervision and direction, remedial or drill activities for individuals or small groups). (Rules 36, 39 and 93)	Complementing instruction (i.e., assisting the teacher during the lesson by helping pupils who may be having difficulty in understanding or in keeping up with the class). Supplementing instruction (i.e., assisting the teacher by working with the individuals or small groups of pupils on follow-up activities specified by the teacher). Reinforcing instruction (i.e., assisting the teacher by administering, under supervision and direction, remedial or drill activities for individuals or small groups). (Rules 36, 38, 48, 93 and 94)

1/17/80
SESA

R 340.1723-02
I-071
12/15/80

SUBJECT:

Dissenting members of the IEPC

SPECIFIC ISSUE:

How can the dissenting IEPC members legally and ethically indicate, for the record, their non-support of the Committee's ultimate recommendation to appease the parents by non-initiation of services or termination of services as the case may be?

INTERPRETATION:*

The intermediate district plan is required to spell out the procedures by which the IEPC decision will be made within each intermediate district (R 340.1833, Part 1, Section 1.3). Except as specified in the intermediate plan, there is no legal recourse for a member of the IEPC who does not support the committee's recommendation. If a member of the IEPC objects to the recommendation, that person does have the right to put their recommended placement in a letter to the superintendent. It is the superintendent's responsibility, under R 340.1723(1) of the Michigan Administrative Code, to make the final determination for placement. The superintendent may consider other recommendations including those from staff or recommendations received from IEPC members who did not concur with the formal recommendation of the committee.

*SUPERVISORY COUNCIL HAS RESCINDED THIS INTERPRETATION. IT IS NOT NEEDED BECAUSE R 340.1721e(4) ADDRESSES THIS ISSUE. THIS ACTION WAS TAKEN ON DECEMBER 18, 1980.

R 340.1733-09
I-072
12/15/80

SUBJECT:

Objectives - Short-term instructional performance objectives

SPECIFIC ISSUE:

What is the relationship between the short-term objectives of R 340.1721e(3)(b) and performance objectives in the cognitive, psychomotor, and affective domain; R 340.1733(e)?

INTERPRETATION: IEP

When a person is determined to be eligible for special education programs and services, an IEP must be written. The IEP must identify annual goals and short-term instructional objectives. These goals and objectives are individualized to the student and are to be developed with the parent.

PERFORMANCE OBJECTIVES

Performance objectives based on the IEP annual goals and short-term performance objectives are to be written by special education personnel for handicapped persons assigned to a special education program or service. These performance objectives are to be developed in accordance with the handicapped person's needs in the cognitive, affective, and psychomotor domains with special attention to personal adjustment, prevocational, physical education, and vocational training. These objectives can be taken from a curriculum designed for a special education program area or service as long as the objectives are specific and relate to the handicapped person's needs.

R 340.1746-03
I-073
12/15/80

SUBJECT:

Service and Reimbursement for Homebound/Hospitalized Students

SPECIFIC ISSUES:

1. What are the alternatives for the delivery of homebound/hospitalized services for students who are homebound/hospitalized within Michigan and Michigan residents who are hospitalized outside of Michigan?
2. What are the reimbursement procedures for each alternative?

BACKGROUND:

Rule 340.1746 defines those students who are eligible for homebound/hospitalized services.

> R 340.1746(a) Homebound students are defined as:
>
> Homebound services shall be initiated within 15 school days after certification by a licensed physician of a medical handicap which requires the person to be confined to the home. Such certification shall indicate the anticipated duration of the required confinement. If the anticipated duration will exceed 1 school year, the student shall be evaluated under the provisions of R 340.1709.

R 340.1746(b) Hospitalized students are defined as:

Hospital services shall be provided for persons who cannot attend school because of hospitalization for a physical or medical impairment. These services shall be initiated when determined medically feasible.

INTERPRETATION:

A. Membership Aid. All students who are in a homebound or hospitalized program as of the fourth week in September qualify for State Membership Aid.

3. Reimbursement for regular education students receiving homebound/hospitalized services.

Alternative 1 - Special Education Reimbursement. Special Education approved homebound/hospitalized teachers may provide service to regular education students who qualify for service under R 340.1746. These services are reimbursed under Section 52 of the State School Aid Act.

Alternative 2 - Locally Funded Programs. A local district may use regular education personnel to provide service to students who are homebound or hospitalized, but there is no special education reimbursement. This option is usually more economical in districts that average seven or less homebound/ hospitalized students.

Rule 340.5(d) allows the school district the option of providing homebound/hospitalized services by nonspecial education personnel. In this instance, a teacher must still meet the requirements as specified within the Michigan General School Laws. This option may be used for all students, including the handicapped students receiving special education services and who are assigned to regular education teachers.

Where districts choose this option, a procedure should be established to assure that phone hook-ups and other compensatory instructional devices are considered to supplement the instruction provided in the home or the hospital.

Alternative 3 - Contracting For Students Hospitalized Out-of-District or Out-of-State. It is the interpretation of the Department of Education that hospitalized instruction is an ancillary supportive educational service. School districts may contract for services from public or private agencies.

The district of residence may contract for hospitalization education service with another district or in the case of students hospitalized outside the state, with a private agency or individual teacher. No state aid reimbursement is available for contract service.

(Note: If the district providing the service is using an approved special education teacher to provide hospitalized service, the operating district will collect state aid and will only bill the sending district for the added cost of the program).

C. Reimbursement for Special Education Students Receiving Homebound and Hospitalized Service.

Alternative 1 - A special education approved homebound/hospitalized teacher may serve handicapped students who are homebound or hospitalized.

If the individual is a special education student, the homebound/hospitalized teacher will follow the written IEP (Individual Education Program) for the student.

Alternative 2 - A special education teacher may be contracted to work overtime to serve a special education student who is homebound or hospitalized. This is reimbursable as a special education contracted service.

Alternative 3 - Homebound instruction provided by a special education reimbursed teacher consultant.

R 340.1749(e) authorizes teacher consultants to serve handicapped students who are homebound. The assignment must be done through the educational planning and placement process. In this case, the IEPC must find the student eligible for homebound under R 340.1746 and the placement of the teacher consultant must be made using the IEPC process.

Alternative 4 - Contracting for Special Education students served out of district. The sending district may not claim State Aid for fees paid to other Michigan districts which service their students.

The operating school district collects the State Categorical Aid and bills the sending district for the added cost.

The cost for services for special education students hospitalized in another state may be reported as a contracted service and qualify for State Special Education Categorical reimbursement provided that:

a) the person providing the service is an approved special education teacher, and

b) there is evidence that the contracted teacher is implementing the student's I.E.P.

NOTE: The district of residence may collect membership and include these students in the count for P.L. 94-142 Funds when the above conditions are met.

R 340.1721e-06
I-074
2/12/81

SUBJECT:

General Education Programs/IEPC

SPECIFIC ISSUE:

Is a school district legally responsible for providing general education programs and/or services to a handicapped student, if they are written into the IEP?

INTERPRETATION:

The rule being interpreted is R 340.1721e(3)(e)(f). It follows:

> (3) An individualized education program shall be based on all diagnostic, medical, and other evaluative information requested by the committee or provided by the parent or handicapped person and shall include all of the following information in writing:
>
> (e) A statement of the specific special education and related services to be provided to the person, giving consideration to the accessibility of physical facilities; transportation, including the need, if any, for aides or restraints; and room and board.
>
> (f) The extent to which the person is able to participate in regular education programs.

The IEPC has the responsibility to identify the special education programs and services needed by the handicapped student pursuant to R 340.1721e. The IEPC must consider two regular education program areas; physical education and vocational education. Any other regular education program identified in an IEP is a recommendation to the superintendent and is not binding on the public agency. The IEPC determines the special education programs and services but is not authorized to determine regular education programs. The committee must, however, note the extent to which the child is able to participate in regular education.

R 340.1733-10
I-075
8/22/80

SUBJECT:

Age range of students assigned to special education classrooms

SPECIFIC ISSUE:

Is a child 16 years of age automatically given a legal age of 16 for purposes of calculating a four-year age span?

INTERPRETATION:

The rule in question is R 340.1733(d). It follows:

> Special education classrooms with children under 16 years of age shall not exceed a 4-year age span at any one time, except for the severely mentally impaired, the trainable mentally impaired, or the severely multiply impaired.

Whenever a student aged birth through 15 is receiving instruction in a special education classroom, the difference between the youngest and oldest student cannot exceed 48 months. However, if the youngest student in a class is 16, then the 4-year age span does not apply. The rule does not apply to classroom programs for the severely mentally impaired, trainable mentally impaired, or severely multiply impaired.

R 340.1747-01
I-076
9/2/80

SUBJECT:

Classroom programs with LD student enrolled

SPECIFIC ISSUE:

Can a child who is eligible as learning disabled be educated in a classroom program other than a basic LD program where more than 10 students may be being taught at one time?

BACKGROUND:

The rule being interpreted is R 340.1747. It follows:

> A special education program serving learning disabled students shall have not more than 10 students in the classroom at any one time, and the teacher shall have responsibility for educational programming for not more than 15 different students.

INTERPRETATION:

The phrase "special education program serving learning disabled students" refers to those basic classroom programs that are under the direction of a teacher with approval in LD and are therefore basic LD special education programs.

Students eligible under R 340.1713 (learning disabled) may be placed in basic classroom programs for handicapped persons where the maximum class size is greater than that required in rule 47, if this setting is determined by the IEPC to be appropriate for the child. When this is the case the number of children in this class is determined by the title of the basic classroom program and not by the presence of an LD child.

This would only apply to learning disabled children being placed in an EMI classroom where the maximum class size is 18 with no more than 15 students at one time or a POHI classroom program where the maximum class size is 15 full-time students per teacher.

R 340.1781-01
I-077
9/18/80

SUBJECT:

Substitute teachers

SPECIFIC ISSUE:

Can a school district hire a substitute without special education approval and receive special education reimbursement?

INTERPRETATION:

Yes. School districts may contract with a substitute teacher to temporarily replace a special education teacher who for health or other reasons cannot work. Furthermore, a school district may contract with a substitute without special education approval and receive special education reimbursement.

If the school district intends to hire a substitute to replace a special education teacher who has terminated employment or who will be on extended leave, then the district must follow the Administrative Rules governing the certification of Michigan Teachers. R 390.1141 - R 390.1145 deal with the issuance of special permits being either a full-year permit or a substitute permit.

R 390.1105(5) states that "A teacher in a reimbursed program in special education, shall meet the minimum qualifications for certification when required by law in the particular special education field as specified by the state board." Therefore, teachers without a valid Michigan certificate and full or temporary special education approval may not be hired to teach special education.

If a teacher who meets these qualifications cannot be secured and children will be deprived of an education, the operating school district superintendent can recommend a person for a permit to teach in an emergency situation pursuant to R 390.1145.

It is suggested that the public agency seek a substitute teacher or a replacement teacher in the following order:

1. Valid Michigan Teaching Certificate with full or temporary special education endorsement in the same area as the teacher for whom the substitute is being sought.

2. Valid Michigan Teaching Certificate with full or temporary special education endorsement in any area.
3. Valid Michigan Teaching Certificate.
4. State Special Permits
    a. Full-Year Permit
    b. Substitute Permit (90 days)

R 340.1721b-04
I-078
10/13/80

SUBJECT:

Regular Teacher: Speech IEPC meetings

SPECIFIC ISSUE:

Must the regular educator be a participant at the IEPC meeting for regular education students suspected of being speech and language impaired?

BACKGROUND:

The rule being interpreted is R 340.1721b(2)(b).

> (2) Participants in an individualized educational planning committee meeting shall, at a minimum, include both of the following:
>
> (a) A representative of the public agency, other than the child's teacher, who is qualified to provide, or supervise the provision of, special education.
>
> (b) The student's teacher or a teacher appropriate for the student's age and ability if the student is not previously enrolled by the public agency. If the child is enrolled in regular education, at least 1 of the participants shall be a regular full-time teacher to whom the child is assigned.

INTERPRETATION:

The regular education teacher to whom the suspected speech and language impaired child is assigned must be a participant in the initial IEPC meeting as well as subsequent meetings pertaining to the speech and language impaired student.

R 340.1861-01
I-079
10/17/80

SUBJECT:

Central Registry

SPECIFIC ISSUE:

How long must information be maintained on the ISD's Central Registry?

INTERPRETATION:

Each public agency that maintains records on handicapped children must have a records and confidentiality policy which outlines procedures the agency will use in matters related to educational records. It is suggested that the ISD policy on records and confidentiality contain language stipulating the length of time information remains in the central registry, as well as procedures that relate to amendment, disclosure, and destruction of information on the registry. The policy language cannot supersede rule. Therefore, the following suggestions are presented.

A. Central registry information is to be maintained as long as a handicapped person receives special education programs and services in the local or intermediate school district. R 340.1702 defines handicapped person as one who has been determined by an IEPC or hearing officer to have a characteristic or set of characteristics pursuant to R 340.1703 to R 340.1714 that necessitate special education and related services. Once an IEPC determines that a person is no longer eligible, the person is, by definition, no longer handicapped and therefore, record information is no longer mandated to be part of the central registry. If the ISD maintains IEPs on handicapped children in their district, the IEPs must be kept on file for 3 years.

B. Information on the central registry is for administrative purposes; however, this information is also considered to be an educational record and therefore, is subject to all rules pertaining to records and confidentiality, being R 340.1801-.1873. The intermediate district does not have to notify the parent when the student data is being taken off the central registry provided that the original file on the student is kept elsewhere in the intermediate district or at the local district. The central registry is an administrative file. Taking a student's name and other information off of an administrative file does not constitute "destruction of information" as defined in R 340.1873 so long as the original information is maintained by the district.

School personnel are also reminded to include the central registry on the "list of types and locations of educational records" provided to the parents under R 340.1865.

R 340.1722a-03
I-080
10/17/80

SUBJECT:

IEP - Reassign within LEA

SPECIFIC ISSUE:

Is an IEPC meeting required if the child is moved from one school building to another within the same local school district?

INTERPRETATION:

A school district does not have to convene an IEPC to move a student from one building to another within the same LEA provided all of the following occur:

A. There is no change in the annual goals or short-term objectives;

B. There is no change in the dates initiating services or the anticipated duration of service;

C. The objective criteria and evaluation procedures and the schedule for determining whether the instructional objectives are being met are not changed;

D. The specific special education and related services as prescribed by the IEPC do not change;

E. The extent to which the person is able to participate in regular education is not altered;

F. The least restrictive environment for the student does not result in the student being placed in a more restrictive environment than the previous assignment. If a student is reassigned from one building to another by the district, it is the responsibility of the superintendent to assure that the handicapped person is given the same opportunity to participate in non-academic and extracurriculum activities as other non-handicapped students in the building to which the student is assigned.

In summary, if no alterations are needed in the IEP, then an IEPC meeting need not be convened. The superintendent or designee must notify the parents of this administrative decision pursuant to R 340.1723a-1723b, and identify who is responsible to see that the IEP is implemented. This notice of a change in placement is a hearable matter pursuant to R 340.1723a(2).

R 340.1714-01
I-081
[illegible]0/17/80

SUBJECT:

Evaluation Personnel - SXI

ISSUE:

Evaluation and Re-evaluation of Severely Multiply Impaired Persons.

SPECIFIC ISSUE:

Who must evaluate persons who are suspected of being severely multiply impaired, and who must re-evaluate severely multiply impaired persons every three years?

INTERPRETATION:

The rule being interpreted is R 340.1714(2). It follows:

> (2) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team which shall include a psychologist, a neurologist, and an orthopedic surgeon, and ophthalmologist; or an otolaryngologist and an audiologist, depending upon the handicaps defined in this part.

A psychologist as defined in R 340.1701a(o) must be a member of the multidisciplinary evaluation team for each person suspected of being severely multiply impaired. The mandated second member(s) of the team depend on the suspected handicap. If the suspected physical handicap involves vision, the mandated team member is an ophthalmologist; if the physical handicap is hearing, the audiologist and otolaryngologist; if the person's impairment is not sensory, but physical, then the second team member must be either a neurologist or an orthopedic surgeon.

Suspected Impairment Area	Cognitive	Physical
Mental Impairment	Psychologist	
Hearing	Psychologist	Audiologist & Otolaryngologist
Vision	Psychologist	Ophthalmologist
POHI	Psychologist	Neurologist or Orthopedic Surgeon

The rule does not have the phrase "or equivalent" so medical personnel not identified in this rule may not be substituted for mandated members of the multidisciplinary evaluation team. Evaluations by general practitioners, pediatricians and other medical personnel may be reviewed by the MET and by the IEPC, but may not be substituted for the required evaluations by the above named specialists.

Persons who are severely multiply impaired must be re-evaluated every three years to determine if they are still eligible as severely multiply impaired or if they are eligible under one of the other eligibility rules being R 340.1703-.1713. The mandated participants on this team are also those identified in R 340.1714(2).

R 340.1732-01
I-082
1/26/81

SUBJECT:

Residency

ISSUE:

Residency of Handicapped Students.

SPECIFIC ISSUE:

How is a handicapped student's district of residence determined? Who is responsible for providing the educational program for the person? What, if any, special financial provisions are made for each determination of residency?

INTERPRETATION:

The rule being interpreted is R 340.1732 of the Michigan Administrative Code. The attached flow chart is designed to provide a procedure that can be used to determine the residency of handicapped students and to identify the agency that is responsible to provide education and to pay for educational services for nonresident students. The procedure applies only to pupils who have been determined eligible for special education. Definition and rule references are listed following the Flow Chart.

To use this chart, start at the top left side of the page in the column labeled "Placement" and read down until you find the reason for placement. By the process of elimination, you should be able to identify the conditions governing placement. Once placement has been identified, the description to the right of the placement designation will provide information needed to determine:

a) the district that is responsible for educating the child;

b) the district of residence; and

c) any special financial provisions.

DEFINITIONS AND REFERENCES

A. "Added costs" shall be computed by deducting, from the total approved costs of special education programs and services, a gross allowance for each full-time equated special education pupil counted in membership in the district or intermediate district, whose primary educational or training program, as determined by the department, is a special education program and service as defined in section 6(7) of the school code of 1976. (Article 5 of the State School Aid Act)

B. "Local district contribution" means the contribution to be made by the resident school district, if a basic education program for persons is operated by another party to the contract under the provisions of section 1751 of Act No. 451 of the Public Acts of 1976, as amended, being §380.1751 of the Michigan Compiled Laws, shall be the total cost of the education program for each person minus the gross state aid membership allowance categorical aid, and the intermediate school district reimbursement for each person. (R 340.1806)

C. Section 24 of the State School Aid Act.
Sec. 24. A pupil under court jurisdiction who is placed in a private home or in a private or public institution located outside the district in which the pupil's parents or legal guardians reside may be counted as a resident of the district of attendance if other than the district of the pupil's parents or legal guardian. The pupil shall be counted as 1-1/2 memberships. The total membership of these pupils shall be computed by adding the membership days attended by the pupils before April 1 of the current school year and dividing the total by the number of days in the school year of the district before April 1 of the current school year. The membership thus obtained shall be certified by the district to the department, which shall adjust the total membership of the district accordingly in determining the school aid to be paid during the current fiscal year.

D. Section 53 of the State School Aid Act.
Sec. 53. (1) Reimbursement shall be 100% of the added costs of operating special education programs and services approved by the department and included in the intermediate district plan adopted pursuant to article 3 of the school code of 1976 for the special education pupils, including severely mentally impaired, trainable mentally impaired, severely multiply impaired, or otherwise handicapped persons, assigned to a district or intermediate district through the community placement program of the courts or a state agency, if the pupil was a resident of another intermediate district at the time the pupil came under the jurisdiction of the court or a state agency, and for special education pupils who are residents of institutions operated by the department of mental health; who are residents of nursing homes, foster family homes, alternative intermediate service centers, or foster family group homes which are under contract with the department of mental health; who are placed in a district by a parent for the purpose of seeking a suitable home, and the parent does not reside in the same intermediate district as the pupil's placement; who are residents of nursing homes whose educational

programs are approved by the department of education; or who are residents of homes for the developmental disabled which are leased by the state or operated under contract with the department of mental health, or both. Only those costs that are clearly and directly attributable to educational programs for pupils described in the subsection, and that would not in fact have been incurred if the pupils were not being educated in a district or intermediate district, shall be reimbursed under this section.

(2) The added costs of transportation shall be funded under this section but shall not be reimbursed under article 7.

(3) Not more than $26,900,000.00 for 1980-81 of the allocation in section 51(1) shall be allocated under this section.

PROCESS FOR DETERMINING RESIDENCY FOR SPECIAL EDUCATION STUDENTS

PLACEMENT	DISTRICT RESPONSIBLE FOR PROVIDING SPEC EDUCATION	DISTRICT OF RESIDENCE	SPECIAL FINANCIAL PROVISIONS
A pupil is placed outside the district of residence by an educational agency.	The district that enrolls the handicapped pupil.	The district where the parent having custody of child, or guardian lives.	The educational agency making payment is responsible for added costs.
A pupil is placed in a public school outside of the district of residence by parents for purpose of receiving an education.	The district in which the public school that enrolls the handicapped pupil is located.	The district where the parent or guardian lives.	The parents are responsible for added costs.
A pupil is placed in a nonpublic school for the purpose of receiving an education.	The district where the nonpublic school is located is responsible for auxiliary services.	The district where the parent or guardian lives.	The parents are responsible for education costs except for provision of "auxiliary services" provided to students enrolled in nonpublic schools.
A pupil is court placed and the operating district chooses to claim funds under Sec. 24 of State School Aid Act.	The operating district collecting funds under Sec. 24.	District where guardian or parent having custody reside or if no parent or guardian, the district where the court of jurisdiction is located.	The operating district may collect 1 1/2 memberships. Refer to Sec. 24 of State School Aid Act.
A pupil is 18 years of age or older and has no legal guardian.	District where student lives.	District where student lives.	100% funding is available under Section 53 of the State Aid Act if the student a) lives in a DMH institution; b) lives in a nursing home, foster care home or a facility under contract with the DMH, or c) is placed by the court or a state agency and lived in another ISD at the time he or she came under the jurisdiction of the court or agency.

PROCESS FOR DETERMINING RESIDENCY FOR SPECIAL EDUCATION STUDENTS (Cont'd)

PLACEMENT	DISTRICT RESPONSIBLE FOR PROVIDING SPEC EDUCATION	DISTRICT OF RESIDENCE	SPECIAL FINANCIAL PROVISIONS
A pupil is under 18 and is placed by a court or state agency.	District where student is placed by court or state agency.	District where guardian or parent having custody reside or if no parent or guardian, the district where the court of jurisdiction is located.	Same as above.
A pupil is under age 18 and is placed outside district of residence by parent or guardian for purpose of seeking a suitable home.	District in which the residential facility or home is located.	District in which the residential facility or home is located.	100% funding is available under Section 53 of the State School Aid Act if the parent lives outside the ISD where the child is placed.
None of the above apply.	District where student lives.	District where student lives.	

R 340.1833-01
I-083
11/7/80

SUBJECT:

ISD Plan

SPECIFIC ISSUE:

1) What is meant by "cooperative development" of the ISD plan?

2) What action is expected regarding "quarterly review of the ISD plan?"

INTERPRETATION:

The rule being interpreted is R 340.1833. It follows:

> (1) Intermediate school district plans, or any modification thereof, shall be developed in cooperation with local school districts and the parent advisory committee.
>
> (2) All plans shall be reviewed with the representatives of each local school district and the parent advisory committee, in whole or in part, at least quarterly each fiscal year.

"Developed in cooperation with local school districts and the parent advisory committee" means that the ISD plan must be written with input from the LEA and the PAC. The ISD plan, Section 3.2(1) is to describe how the PAC will participate in the development of the plan. Therefore, each ISD must have an established means of working with the LEA and PAC to develop a plan. It is not acceptable to merely present a completed plan to the LEA or PAC and request an endorsement.

The quarterly review of the ISD plan refers to the review of the plan in whole or in part which is currently in effect. The intent of this review is to determine if the current operational plan is effectively serving the needs of handicapped students and has actually been implemented as written.

These reviews provide a forum for the cooperative participation in an ongoing assessment of needs of the intermediate school district's programs and services. The quarterly review meeting may also review the plan in terms of new legislation or interpretations that developed subsequent to the approval of the plan, and determine if a plan amendment based upon this new information would be necessary.

R 340.1734-01
I-084
11/26/80

SUBJECT:

Deviations - PAC Involvement

SPECIFIC ISSUES:

What is meant by "a copy of the request . . ." in R 340.1734(1)?

BACKGROUND:

The rule being interpreted is R 340.1734. It follows:

> (1) A deviation from these rules shall be requested in writing from the state board of education or its designee by an intermediate or local district operating or contracting for special education programs and services. A copy of the request shall be filed concurrently with the intermediate school district in which affected handicapped persons reside and all local constituent school districts in which the affected handicapped persons reside. A copy of the request shall be filed concurrently with the parent advisory committee of the intermediate school district requesting the deviation and the parent advisory committee of any intermediate school district in which affected handicapped persons reside.
>
> (2) Within 7 days of receipt of the request, the intermediate school district shall file with the state board of education or its designee its objections to, approval of, and rationale regarding, the request.

INTERPRETATION:

The only items required to be transmitted to the affected constituent local and intermediate school districts and the affected parent advisory committees is the request form and required attachments to be submitted by the applicant with all personally identifiable information stricken.

While Rule 34(2) does not require the intermediate school district to distribute copies of its reaction (Form DEV-1734) to involved districts or parent advisory committees, the sharing of this information will provide greater understanding by all parties of the need for such a request, its impact upon the intermediate plan, and the Department's decision to approve or disapprove the request.

R 340.1701-06
I-085
12/2/80

SUBJECT:

Parent Consent

SPECIFIC ISSUE:

What is meant by "consent may be withdrawn at any time" as stated in R 340.1701(i)?

INTERPRETATION:

Parental consent is required in two instances; permission to initially evaluate a person suspected of being handicapped and permission to initially provide special education programs and services to persons determined by an individualized educational planning committee to be handicapped (R 340.1723a(2)).

I. Consent for Evaluation:

Prior to the commencement of the evaluation or at any time during the evaluation process before the multidisciplinary evaluation team completes its evaluation, the parent may revoke permission, thus causing the evaluation process to be terminated. To withdraw consent, the parent must provide the school a written notice, stating that permission to evaluate is being withdrawn. Written consent may not be withdrawn retroactively, i.e., once the MET's evaluation has been completed, the parents cannot withdraw their consent. The parents can, however:

a) provide their own data at the IEPC meeting.

b) request an independent evaluation if they disagree with the school findings.

c) contest the findings at a hearing.

d) seek to amend their child's educational records.

II. Consent for Service:

Once the parent consents to the public agency providing special education program and/or services, the course of action to be taken by a parent who no longer believes that special education programs and services is appropriate for their child is to request a new IEPC meeting.

Stated another way, once the parent gives the school permission to provide services, the parent cannot effect a change in education status for their child without going through the IEPC process.

Parents may refuse consent for service by refusing to agree with the requirements of the IEPC and requesting a hearing.

Parents also have the option of removing their child from public education and placing the child (at their expense) in a private school.

SUMMARY:

A parent may withdraw consent until the actual evaluation is completed. Once agreement is reached between the parent and the public agency, any change in the IEP for a handicapped student must be made through the IEPC process or the hearing process. Neither the parent nor the public agency may alter the educational program once it is begun except through procedures established in rule.

R 340.1714-02
I-086
11/26/80

SUBJECT:

Criteria for Eligibility as Severely Multiply Impaired

SPECIFIC ISSUE:

Are all handicapped students who are mentally retarded and who have a physical disability, eligible as severely multiply impaired?

INTERPRETATION:

The rule being interpreted is R 340.1714(1) which reads as follows:

> (1) The severely multiply impaired shall be determined through the manifestations of all of the following behavior characteristics:
>
> (a) multiple handicaps in the physical and cognitive domains;
>
> (b) inability to function within other special education programs which deal with a single handicap;
>
> (c) development at less than the expected rate for the age group in cognitive, affective, and psychomotor domains.

All three of the above items must be in effect for a handicapped person to qualify as severely multiply impaired:

a) Multiply handicapped in the physical domain is interpreted to mean that the student has a physical disability, i.e., the student is hearing impaired, vision impaired, and/or physically and otherwise health impaired. A handicap in the cognitive domain means that the student is mentally impaired; that is, development at a rate of at least two standard deviations below the mean.

b) The student's educational needs have been reviewed by the IEPC and it is determined that the student cannot have his/her educational needs met in one of the special education programs being R 340.1738 to R 340.1744 which may include ancillary services from other professionals as specified in R 340.1701.

c) The student must be developing less than at the expected rate for the age group in the cognitive, affective, and psychomotor domains.

The normal procedure is for the IEPC to review all other special education programs and services that would be available for this student. If the student has a physical and mental handicap, and if there is documentation that the student has not or cannot reasonably be expected to successfully progress in a single program category, then the IEPC may determine that placement in a classroom program for the severely multiply impaired is appropriate.

R 340.1710-02
I-087
12/17/80

SUBJECT:

Speech and Language Services for Bilingual Children

SPECIFIC ISSUE:

What must be considered in determining students from different ethnic or racial groups handicapped as speech and language impaired?

INTERPRETATION:

Students from different ethnic or racial groups are not handicapped solely because their manner of communicating does not conform to the expectations of the standard English speaking community.

There must be an impairment be it articulation, fluency, voice, or language in the native language of the student. If there is no impairment then the child is not eligible as the student simply has not learned to speak English, the teaching of which is not a responsibility of special education personnel. The communication impairment must adversely affect educational performance. If there is an impairment and it does interfere with learning, and if the impairment is not based solely on cultural differences, then the IEPC may determine the child handicapped under R 340.1710. Teachers of the speech and language impaired in the public schools shall teach expressive and/or receptive skills in English.

SUMMARY:

Students are eligible for services by a teacher of the speech and language impaired if determined to have a speech or language impairment within their native language, or in English, if such an impairment is present after having been taught to communicate in English by personnel other than special education. The impairment must adversely affect educational performance and must not be based solely on cultural differences.

R 340.1706-01
I-088
2/12/81

SUBJECT:

Emotionally Impaired Eligibility Definition

SPECIFIC ISSUE:

What is meant by the phrase "extended period of time."

The rule being interpreted is R 340.1706(1). It follows:

> (1) The emotionally impaired shall be determined through manifestation of behavioral problems primarily in the affective domain, over an extended period of time, which adversely affect the person's education to the extent that the person cannot profit from regular learning experiences without special education support. The problems result in behaviors manifested by 1 or more of the following characteristics.

INTERPRETATION:

The phrase "over an extended period of time" is protective language so that a person would not be determined handicapped due to short-term trauma such as a death in the family, reaction to a serious accident, sickness, or other situations that may present characteristics associated with emotionally impaired persons.

While being protective language, it is not the intent of the rule to withhold needed services from a student because a specified period of time has not elapsed.

An acceptable standard is that "over an extended period of time" means that a) the behavioral problems have been evident for at least three months, or b) if the condition has been evident for less than three months, the multidisciplinary evaluation team must indicate a reasonable expectation that the behavioral problems will continue to exist without special education intervention.

It must be noted that the decision of whether or not the behavioral problems have existed "over an extended period of time" rests with the IEPC and not with a teacher, an administrator, or a multidisciplinary evaluation team member. If a special education referral is submitted, the special education process must begin. It cannot be delayed or not acted on because someone determines that the problem behaviors have not existed "over an extended period of time."

R 340.1746-04
I-089
2/12/81

SUBJECT:

Homebound and Hospitalized Services for Students with Emotional Problems

SPECIFIC ISSUE:

1. Do non-handicapped students placed in hospitals for the purpose of receiving psychiatric treatment, qualify to receive services under R 340.1746, the homebound and hospitalized rule?
2. Can an emotionally impaired student be identified as homebound and taught in the home? If yes, what procedure must be followed?

INTERPRETATION:

The rule being interpreted is R 340.1746. It follows:

Rule 46. Specific requirements for homebound and hospitalized services are as follows:

(a) Homebound services shall be initiated within 15 school days after certification by a licensed physician of a medical handicap which requires the person to be confined to the home. Such certification shall indicate the anticipated duration of the required confinement. If the anticipated duration will exceed 1 school year, the student shall be evaluated under the provisions of R 340.1709.

(b) Hospital services shall be provided for persons who cannot attend school because of hospitalization for a physical or medical impairment. These services shall be initiated when determined medically feasible.

(c) A special education teacher employed for homebound or hospital services, or for a combination of these services, shall be assigned not more than 12 students at any one time.

(d) Progress reports for each person shall be recorded pursuant to the intermediate school district plan.

(e) Students receiving homebound or hospital services shall receive a minimum of 2 nonconsecutive hours of instruction per week. Ancillary personnel may supplement, but not substitute for, the teacher's instruction.

(f) Homebound and hospital services shall not be utilized to serve handicapped persons who are severely emotionally impaired, severely multiply impaired, trainable mentally impaired, or severely mentally impaired, except where the person meets the requirements in subdivision (a) of this rule.

(g) It is the responsibility of the district in which the hospital is located to make homebound and hospital services available to eligible students. If the student is hospitalized outside of the district of residence, the district of residence is responsible for delivering services or for contracting with the operating district and making payment for the services.

I. Non-handicapped students who are confined to their home or to a hospital by a psychiatrist for the purpose of receiving psychiatric treatment, qualify to receive homebound and hospitalized services under R 340.1746(a) and (b).

As a licensed physician, the psychiatrist may certify that a student has a medical handicap which requires the student to be confined to the home. The certification shall indicate the specific medical reason for excluding the child from school, and the anticipated duration of the required confinement, as specified in R 340.1746(a).

Non-handicapped persons who are hospitalized for psychiatric treatment, including treatment for alcoholism and drug addiction, are considered eligible as being hospitalized under R 340.1746(b), provided that the student is required to remain in the hospital under medical orders. It is the responsibility of the district in which the hospital is located, to make hospitalized services available to eligible students. If the student is hospitalized outside the district of residence, the district of residence is responsible for delivering the service or contracting with the operating district and making payment for service as prescribed in R 340.1746(g).

When it appears a non-handicapped student has developed an emotional impairment as described in Rule 340.1706, evaluation must take place and an IEPC convened within 30 days. The responsible agency for convening this meeting is the district of residence as prescribed in R 340.1721c.

II. Homebound Programs for Emotionally Impaired Students: A student who has been determined emotionally impaired in accordance with criteria established in R 340.1706 of the Administrative Rules, may qualify for homebound services if a licensed physician certifies a medical handicap. Certification by a psychiatrist that a child's psychiatric condition precludes attendance at school is considered a medical handicap.

III. EI Students Confined to the Home: EI students confined to the home must be provided educational services. When a licensed physician determines that the student has a medical handicap that prohibits school attendance, an IEPC meeting must be immediately convened as this decision is a change in the student's educational status. The school district does not have the authority to assign a child to the home because of behavioral problems. The decision to place an emotionally impaired student in a homebound or hospitalized setting, must be made by a physician. The IEPC report should contain the following:

A. The documentation of the physician's certification of medical handicap.

B. The reason(s) why the student cannot be appropriately educated in the public school.

C. An estimated length of time the student will require homebound placement.

D. A revised IEP reflecting changes in the student's program that are brought about by the physician's decision.

EDUCATIONAL STAFF:

A special education approved teacher must deliver the instructional program to students who receive services under the homebound and hospitalized rule (R 340.1746). The provision of homebound and hospitalized services to public school students and the procedures for reimbursing school personnel delivering this service is discussed in interpretation 016. The professional staff assigned to teach the student with emotional problems in the home or hospital shall be determined by the superintendent. The professional staff can be a teacher of the homebound and hospitalized, or in the case of students with emotional problems, either a teacher of the emotionally impaired or a teacher consultant for the emotionally impaired. The teacher providing the service shall do so for no less than two nonconsecutive hours of instruction per week. As stated in Rule 46, the hospital service shall begin when medically feasible.

R 340.1701-07
I-090
3/13/81

SUBJECT:

Ancillary Services to Regular Education Students

SPECIFIC ISSUE:

What is the obligation of a local school district to provide related services to nonhandicapped students?

INTERPRETATION:

The rule being interpreted is R 340.1701(c). It follows:

> "Ancillary and other related services" means services specially designed to meet the unique needs of a handicapped person to age 25, including, but not limited to, all of the following:
>
> (i) Audiological, medical, psychiatric, psychological, speech and language, or educational evaluation.
>
> (ii) Occupational, physical, recreational, music, work, or other therapy.
>
> (iii) Mobility and orientation services, and special education services provided by other nonteaching personnel.
>
> (iv) Transportation.
>
> (v) Services designed to assist the regular education student, including school psychological and social work services.
>
> (vi) Instruction provided by special education teachers designed to assist regular education students who are homebound, hospitalized, or placed in juvenile detention facilities.

Ancillary and related services are services for handicapped persons or persons suspected of being handicapped.

The services identified in (i) are to be provided to persons suspected of being handicapped. These professionals conduct evaluations of children who are handicapped or are suspected of being handicapped.

Services identified in (ii, iii and iv) are therapies and services which may only be provided to persons determined to be handicapped. The local school district is under no obligation to provide these services to nonhandicapped children.

The local education agency may use special education reimbursed personnel to provide services to nonhandicapped children (v, vi). These personnel include the school psychologist, the school social worker, and a homebound and hospitalized teacher. The reader is encouraged to review interpretation #016 entitled "Service and Reimbursement for Homebound & Hospitalized Students."

SUMMARY:

The public educational agency is not obligated to utilize special education reimbursed personnel to work with nonhandicapped children. The school district is obligated to evaluate students suspected of being handicapped and to provide ancillary and related services to handicapped students in accordance with IEPC determinations. With the exception of school psychologists, social workers, and teachers of the homebound and hospitalized, the state reimbursed ancillary persons may not work with regular education students unless they are suspected of being handicapped.

R 340.1701-08
I-091
2/11/81

SUBJECT:

IEPC

SPECIFIC ISSUE:

Must the operating district hold an exit IEP for students who move out of a school district or who voluntarily drop out of school?

INTERPRETATION:

The rule being interpreted is R 340.1701(f). It follows:

> "Change in educational status" means an assignment or reassignment of a handicapped person to regular education, special education programs and services, or from one type of special education program or service to another, or termination of special education programs or services by reassignment, graduation, or expulsion.

The IEPC is responsible to consider the need for a change in the educational status of eligible handicapped persons (R 340.1721d(2)(b)). An IEPC meeting must be convened to make a change in the student's educational status.

In the event that a student moves or voluntarily withdraws from school, the school is not considering a change in the educational status of the student. Because the school does not plan to consider changing the child's status, and because no parent is asking the public agency to change the child's status, there is no responsibility of the school district to convene an IEPC.

Once the district is notified that the student has voluntarily dropped out of school or that the student has moved out of the operating district, the district should note this in the child's educational records and inform the intermediate office so that the central register can be revised.

R 340.1795-01
I-092
4/9/81
8/20/81 Revised

SUBJECT:

Preprimary Teacher - Grandperson Clause

SPECIFIC ISSUE:

Who can be grandpersoned in emergency rule 340.1795?

RULE BEING INTERPRETED:

The rule being interpreted is emergency rule 340.1795. It follows:

> Rule 95. (1) A fully approved teacher for preprimary children, in addition to meeting the specific requirements set forth in R 340.1782, shall possess 1 of the following:
>
> (a) A major or minor in early childhood education or child growth and development, as recommended by an approved university.
>
> (b) The early childhood endorsement on the teaching certificate (18 semester hours or 24 term hours in a planned program) or its equivalent.
>
> (c) The child development associate credential.
>
> (2) Certified staff who have had previous experience in preprimary programs and who have been assigned to programs for preprimary children within 5 years prior to the time this rule becomes effective shall have full approval.
>
> (3) This rule shall take effect on September 1, 1981.

INTERPRETATION:

Teachers assigned to a special education classroom program serving preprimary aged handicapped children (under 6 years of age) must have full approval pursuant to emergency rule 340.1795. Full approval shall be granted to teachers who have taught handicapped children under age 6 in an approved special education program designed for preprimary aged students (under 6 years of age) within a period of time being September 1, 1976 - September 1, 1981.

The concept of grandpersoning is to allow a qualified person to maintain qualified status even though more stringent credentials have been developed, approved and adopted. The grandpersoning provision of this rule is for teachers of handicapped students age birth through five years. Persons serving handicapped children, birth through five years, in an administrative or evaluative manner within the last five years are not candidates for the grandpersoning provisions of this rule.

Teacher consultants who provided services to preprimary aged children pursuant to R 340.1749 will not receive approval status as a teacher of preprimary children unless they have been providing "Home Based Instruction" under the interim guidelines for preprimary programs and services which were approved by the State Board of Education on August 19, 1980.

Teachers of the speech and language impaired who provided services to preprimary aged children will not receive approval status as a teacher of preprimary aged students unless they functioned as a basic preprimary classroom teacher with the 1PL approval.

Teacher consultants and teachers of the speech and language impaired will not need to be approved pursuant to emergency rule 340.1795 in order to provide services to preprimary aged students (under 6 years of age). Where students aged 0-5 need these services, the IEP should show that the services required of a teacher consultant are being provided pursuant to R 340.1749 and the services of a teacher of the speech and language impaired are provided pursuant to R 340.1745.

R 340.1713-02
I-093
3/25/81

SUBJECT:

Multidisciplinary Evaluation Team for Students Suspected of Being LD

SPECIFIC ISSUE:

Is the psychologist a mandated member of a MET for a child suspected of being learning disabled?

RULE BEING INTERPRETED:

R 340.1713(4). It follows:

(4) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team which shall include at least both of the following:

(a) The child's regular teacher or, if the child does not have a regular teacher, a regular classroom teacher qualified to teach a child of his or her age or, for a child of less than school age, an individual qualified by the state educational agency to teach a child of his or her age.

(b) At least 1 person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, a teacher of the speech and language impaired, or a teacher consultant.

INTERPRETATION:

A psychologist is not a mandated member of a multidisciplinary evaluation team for students suspected of being handicapped or for eligible students receiving a comprehensive three-year re-evaluation.

A psychologist is a logical diagnostic person in this area of suspected disability in that this professional can provide the MET and the IEPC with opinions as to the student's intellectual ability, emotional stability, and any possible influences of mental retardation or emotional disturbance pertinent to the student. The overlap of the high incidence special education categories (EI, EMI, LD) would make the school psychologist particularly key in eliminating these other handicaps. However, there are many instances where other diagnostic personnel such as teacher consultants or teachers of the speech and language impaired are appropriate persons to evaluate a discrepancy between achievement and ability.

Specific Learning Disability includes "such conditions as perceptual handicaps, brain injury, minimal brain disfunction, dyslexia, and developmental aphasia." It may be necessary to receive diagnostic evaluations from physicians and other specialists such as an audiologist or optometrist to fully diagnose the learning problem of the child.

The responsibility of the MET team is to bring together diagnostic information about a student's learning problem. Input to the MET can be requested and/or received from a number of specialists. The rule does not mandate a specific specialist. Rather, it assures that the MET will, at a minimum, have a member who is "qualified to conduct individual diagnostic examinations of children."

R 340.1838-01
I-094
3/31/81

SUBJECT:

PAC - Foster Parents

SPECIFIC ISSUE:

Can a foster parent serve on a parent advisory committee?

RULE BEING INTERPRETED:

The rule being interpreted is R 340.1838(1)(a). It follows:

> (1) A parent advisory committee shall be appointed by each intermediate school district board.
>
> (a) The committee shall consist only of handicapped persons with at least 1 parent from each constituent local school district.

INTERPRETATION:

The word "parent" is defined in R 340.1701a. "Parent" means the mother, father, or legally designated guardian of the handicapped person. A foster family is licensed by the Department of Social Services and the foster parents are responsible to care for those persons placed in the foster family home. The foster parent is not included within the definition of "parent" in the special education rules, because that person has not been designated as a legal guardian by the court.

The intent of the rule is to have an advisory committee composed of parents of handicapped students with "parent" meaning the student's natural mother or father or the student's legal guardian. A foster parent or other responsible adult caring for the student is not the student's "parent" and consequently, may not serve on the ISD parent advisory committee.

R 340.1725d-01
I-095
3/25/81

SUBJECT:

District Responsibility Regarding Unresponsive Parents

SPECIFIC ISSUE:

In the event that a parent or guardian can be identified, but for whatever reason refuses to participate in the special education process, does the public agency have the duty to notify the appropriate court and request the court to take action? Additionally, what is the public agency's responsibility to assure the provision of surrogate parents in accordance with 34 C.F.R. part 300 formerly 45 C.F.R. 121a.514.

RULE BEING INTERPRETED:

The rule being interpreted is R 340.1725d. It follows:

> Each public agency shall assure that handicapped persons under the age of 18 have a parent or legal guardian to represent their interests. If no parent or legal guardian, as defined in R 340.1701a(h) can be identified, or if the public agency, after reasonable effort, cannot discover the whereabouts of a parent or legal guardian, the public agency shall notify the court of jurisdiction and request the court to take action to assure that the person has a legal guardian.

INTERPRETATION:

The answer to the first question is, no. If the parent can be identified, but refuses to participate in the special education process, the public agency is under no obligation to notify an appropriate court and request action. The public agency may use hearing procedures to evaluate or serve the child if the parent refuses to respond or refuses to consent to the evaluation or the delivery of special education programs or services to a child. The school district may consider contacting the Department of Social Services pursuant to Act No. 238, Public Acts of 1975 (Child Protection Law) if the school district has reasonable cause to suspect child abuse or neglect?

In response to the second question, the assurance is stated in rule. We assure the federal government that the parents/legal guardian will be involved through R 340.1725d. The federal regulation states that the public agency can appoint surrogate parents as prescribed by state law as stated in the Federal Annual Program Plan (FAPP). In Michigan, only the court can determine a legal guardian (surrogate).

R 340.1721e-07
I-096
4/2/81

SUBJECT:

Sex Education/IEP

SPECIFIC ISSUE:

If a student is assigned to a basic classroom special education program, and as part of the IEP, has a goal and specific objectives in the area of sex education, is the child's special education teacher qualified to provide the instruction which will enable the student to accomplish the objectives or is the district required to develop a program of instruction under Act 226 of the Michigan Public Act of 1977, which is supervised by a registered physician, a registered nurse or other person certified by the State Board as qualified and offer the instruction by teachers qualified to teach health education?

INTERPRETATION:

The provision of sex education and reproductive health to handicapped students in basic special education classrooms is subject to the mandate of P.A. 226 of 1977. Possessing a valid Michigan teaching certificate and a special education endorsement is not in itself sufficient to meet the requirement in Section 1507(5) which states that instruction shall be provided by teachers qualified to teach health education. In order for the special education teacher to teach sex education, the teacher must have a valid Michigan teaching certificate and meet the approval criteria identified in Part 2 of the Department of Education's sex education guidelines (see below).

Part 2

TEACHERS AND SUPERVISORS OF PROGRAMS

It may be of value for local school districts to consider the following areas of importance in selection of prospective teachers:

1. that the individual recognize the need for education in human sexuality at all levels of our society,
2. that the individual be prepared academically,
3. that the individual possess the personal commitment and skill to develop honest and sincere relationships with the students, and
4. that the individual be interested and willing to teach in the area of human sexuality.

Teachers of sex education should be familiar with growth and development throughout the life cycle, sensitive to the emotional, physical, and intellectual needs of the students, and comfortable with their own sexuality.

Pre-service and staff development programs should be designed to increase a teacher's competencies in teaching methods, utilization of available materials and resources, and command of subject matter related to human sexuality and family life education.

Persons within the community who can offer invaluable assistance in staff development include medical and health professionals, college and university faculty, and members of the clergy. Consultation from the Departments of Education, Public Health, Mental Health, and Social Services, and intermediate school districts can also offer assistance.

A. Approval Criteria for Elementary and Secondary Teachers

As stated in Section 1507(1) of the law "A board of a school district may engage qualified instructors and provide facilities and equipment for instruction in sex education, including family planning, human sexuality, and the emotional, physical, psychological, hygienic, economic, and social aspects of family life. Instruction may also include the subjects of reproductive health and the recognition, prevention, and treatment of venereal disease." Section 1507(5) further states that "a school district that provides a class as permitted above shall offer the instruction by teachers qualified to teach health education."

Teachers who possess a valid Michigan teaching certificate in health education (major or minor) are qualified to teach sex education and reproductive health provided they meet the approval criteria listed below. Other teachers in an area closely related to health education may also qualify to teach sex education and reproductive health by meeting the approval criteria listed below.

The following criteria shall be used by the local board of education in determining the selection of teachers in reproductive health, including family planning, at the local school district level.

Professional Preparation

Any elementary and secondary teacher who teaches in the area of reproductive health, including family planning, shall possess a valid Michigan teaching certificate. In addition, each teacher shall meet all of the approval criteria listed below which includes professional preparation in the biological and behavioral sciences, sex education content areas, and health education content areas.

1. Professional preparation shall include study in the biological and behavioral sciences. Such study shall include at least six (6) semester hours of approved undergraduate or graduate course work from among the following: human biology, anatomy, physiology, human heredity or genetics, bacteriology, psychology, mental health, sociology, or cultural anthropology.

2. Professional preparation shall include study in sex education content areas which shall be approved by the Department of Education. Such study shall include:

   a. at least two (2) semester hours of approved undergraduate or graduate course work in sex education, human reproduction, family planning, marriage and family relations, human sexuality, family life education, or a combination of the above,

   or

   b. the completion of a Department of Education approved twenty (20) clock hours of in-service in sex education, human reproduction, family planning, marriage and family relations, human sexuality, family life education, or a combination of the above.

3. Professional preparation shall include study in special health education content areas. Such study shall include at least two (2) semester hours of approved undergraduate or graduate course work from among the following: Growth and development, personal health, community health, the school health program, school health problems, or health problems of children and youth.

   A local school district superintendent may submit a letter of recommendation to the Department of Education requesting temporary (one-year) approval of a prospective teacher of reproductive health, including family planning, who does not meet the above criteria. The Department of Education shall determine the approval status of each temporary (one-year) recommendation and respond to each requesting school district in writing. This temporary approval may be renewed only once.

   It is strongly recommended that teachers of reproductive health, including family planning, continuously update their information. This may be done through the Professional Development Activities Program approved by the Department of Education.

Professional Development Activities

Any elementary or secondary teacher who teaches in the area of reproductive health, including family planning, shall be professionally prepared to teach in this special health area and shall be approved by the Department of Education for such instruction.

Professional development activities shall include at least twenty (20) clock hours of inservice in sex education, human reproduction, family planning, marriage and family relations, human sexuality, family life education, or a combination of the above.

Professional development activities in this area offered by colleges and universities, intermediate school districts, professional development centers, community health agencies, professional associations, and educational consulting organizations shall be approved by the Department of Education.

B. Approval Criteria for Supervisors

The statute provides that "A program of instruction in reproductive health shall be supervised by a registered physician, registered nurse, or other person certified by the state board (of education) as qualified."

Supervisors shall be selected by the local board of education. It is strongly recommended that the background and training of supervisors be considered in the selection process. This background and training should be in human sexuality, family planning, or related area.

The supervisor may be a physician or registered nurse licensed to practice in Michigan. Other persons who may qualify as supervisors include individuals who meet the approval criteria outlined for teachers of sex education with three (3) years of experience in health education instruction or related areas. Supervisors may be selected from the local or intermediate school district or community.

A local school district superintendent shall submit a letter of recommendation outlining the qualifications of the supervisor to the Department of Education. The Department of Education shall determine the approval status of each recommendation and respond to the requesting school district in writing.

Supervision usually implies responsibility associated with the organization and improvement of instruction. In some cases the supervisor's assignment might be broader in scope and incorporate responsibility for the entire elementary and secondary instructional program. The role of the supervisor is to (1) coordinate the activities of the advisory board, (2) identify health needs of students, (3) outline the program objectives, and (4) help to evaluate the teaching-learning process for improvement of instruction. The supervisor works with teachers and school staff in selection and use of learning materials and resources.

R 340.1738-03
I-097
5/2/81

SUBJECT:

Student - Teacher - Aide Ratio in SMI Program

SPECIFIC ISSUE:

Is an additional aide required for a classroom program for severely mentally impaired students when the 7th child is assigned to the program?

RULE BEING INTERPRETED:

The rule being interpreted is R 340.1738. It follows:

(a) An instructional unit for the severely mentally impaired shall consist of at least 1 teacher and four instructional aides for a maximum of 24 students, with an average ratio of 1 instructional aide for 6 students. At least 1 full-time teacher and 1 full-time aide shall be employed in every program for the severely mentally impaired.

(b) A school year for the severely mentally impaired shall include a minimum of 230 days and 1,150 clock hours of instructional activities.

(c) Persons employed in a severely mentally impaired program shall have the following responsibilities:

(i) Teachers shall be responsible for the instructional program and shall coordinate the activities of aides and supportive professional personnel.

(ii) Instructional aides shall work under the supervision of the teacher and assist in the daily training program for not more than 6 severely mentally impaired students.

(iii) Program assistants may assist the teacher and the instructional aides in the feeding, lifting, and individualized care of severely mentally impaired students.

INTERPRETATION:

There are two references to the instructional aide not working with more than 6 students. The first is R 340.1738(a) ". . . with an average ratio of 1 instructional aide for 6 students." The second is R 340.1738(c)(ii), "Instructional aides shall work under the supervision of the teacher and assist in the daily training program for not more than 6 severely mentally impaired students."

The special education classroom teacher assigned to the SMI program is not to be a factor in the determination of the ratio. The teacher is responsible for the instructional program and coordinates the activities of the aide(s). The ratio of concern in this rule is the aide to student. Since no aide can assist more than 6 students and the average ratio is to be 1 instructional aide per 6 students, the 2nd aide is required when the 7th student is assigned to the program, the 3rd aide is required with the 13th and the 4th aide is required with the 19th student.

If an analysis of the classroom program indicates that the teacher-aide-student ratio is unnecessary to meet the individual needs of the students, a district may invoke rule 34 and seek a deviation to R 340.1738.

R 340.1721a-02
I-098
5/13/81

SUBJECT:

Special Education Reimbursed Personnel Evaluating Regular Education Students

SPECIFIC ISSUE:

When may a special education reimbursed professional begin service to a regular education student?

LEGAL REFERENCE:

The legal reference Section 51 (3) (b) follows:

> Special education approved personnel not utilized full-time in the evaluation of students or in the delivery of special education programs, ancillary, and other related services shall be reimbursed under this section only for that portion of time actually spent providing these programs and services, with the exception of special education programs and services provided to youth placed in juvenile detention facilities as defined in R 340.1757 of the Michigan Administrative Code.

INTERPRETATION:

Diagnostic personnel such as school social workers, school psychologists, teachers of the speech and language impaired, audiologists, occupational and physical therapists and others responsible to evaluate children suspected of being handicapped may begin their interaction with a regular education student when the school district receives a written parental consent to evaluate pursuant to R 340.1721 and R 340.1721c(2). The receipt of such permission, or a hearing officer's decision to evaluate a child without parental consent, means the student is suspected of being handicapped and begins the 30-day IEPC process (evaluation to IEPC meeting).

Preschool child find activities that are part of a special education screening program are reimbursable and fulfills the requirement to seek out children who may be handicapped.

R 340.1707-01
I-099
7/27/81

SUBJECT:

Evaluation; Otolaryngologist

SPECIFIC ISSUE:

Can an otologist be substituted for an otolaryngologist as a member of the multidisciplinary evaluation team which determines eligibility for services as a hearing impaired individual?

RULE BEING INTERPRETED:

The rule being interpreted is R 340.1707(2). It follows:

> (2) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team which shall include an otolaryngologist and an audiologist.

INTERPRETATION:

Yes. An otolaryngologist practices medicine dealing with disorders of the ear, nose, and throat. An otologist practices medicine dealing with the ear and its disorders. Since both otolaryngologists and otologists practice medicine dealing with disorders of the ear, either is acceptable as a member of the multidisciplinary team to determine the existence of a hearing impairment.

R 340.1701-08
I-100
5/29/81

SUBJECT:

Withdrawal From Special Education

SPECIFIC ISSUE:

Does the parent have the right to withdraw their handicapped student from special education?

THE RULE BEING INTERPRETED:

The rule being interpreted is R 340.1701(f). It follows:

> Rule 1(f). "Change in education status" means an assignment or reassignment, of a handicapped person to regular education, special education programs and services, or from one type of special education program or service to another, or termination of special education programs or services by reassignment, graduation, or expulsion. Any change in grade level within an education program level, such as preprimary, elementary, junior high, or senior high, shall not constitute a change in educational status, but a change from one educational program level to another constitutes a change in educational status.

INTERPRETATION:

It is the responsibility of the school district to maintain programs and to provide an education for its children. Section 380.1300 gives the Board power to develop regulations dealing with the establishment, maintenance, and management of educational programs. Section 380.1282 of the School Code of 1976 reads as follows:

> Sec. 1282. The Board of a school district shall establish and carry on the grades, schools, and departments it deems necessary or desirable for the maintenance and improvement of the school, determine the course of study to be pursued, and cause the pupils attending school in the district to be taught in the schools or departments the Board deems expedient.

This law clearly establishes the school district's responsibility and authority to assign students to appropriate programs.

The State Board of Education is empowered to establish rules as it relates to the placement of handicapped children under section 380.1703 of the School Code. The rules established by the State Board of Education specify the conditions and procedures for "a change of educational status" (R 340.1701(f)).

As specified in this rule, withdrawing a handicapped student from special education and placing him/her into regular education would constitute a change of educational status.

R 340.1721(d) indicates that the responsibility for change of educational status rests with the individual educational planning committee. R 340.1721(e) through R 340.1725(d) identify the procedure for the establishment of the individual educational planning committee and for appeals to the decision made by that committee.

The above rules prohibit both the parent and the school district from unilaterally withdrawing a handicapped child from a special education program, and placing the student in regular education in the public school.

The compulsory school attendance law, being Section 380.1561 of the School Code of 1976, requires every parent or guardian of a child between the ages of 6 and 16 to send that child to the public school for the entire year with one exception. The exception is unless the child is in attendance at a non-public school. Therefore, a parent of a handicapped child can withdraw their child from a public school special education program and enroll the child in a non-public school. If the parent chooses this course of action, the public school does not convene an IEPC meeting (see official interpretation #034) and the public school no longer becomes responsible for the provision of a free and appropriate public education for the child.

Summary: Neither the parent nor the school district can remove a child from a public school special education program without following the IEPC process established in rules unless the parent decides to enroll the child in a non-public school. In this case, no IEPC meeting is convened and the public school is absolved of their responsibility to provide the child with a free and appropriate public education.

R 340.1733-11
I-101
8/20/81

SUBJECT:

Programs for the Severely Handicapped in Regular Education Buildings

SPECIFIC ISSUE:

Can a program, exempt from the 4-year age span (R 340.1733(d)) be housed in a regular education school building?

RULE TO BE INTERPRETED:

The rule being interpreted is R 340.1733(b). It follows:

> Special education classrooms shall be located in schools housing regular education pupils of comparable age and grade level. Each handicapped person shall be assigned to educational programs and services housed in buildings that allow handicapped persons to participate fully in regular and special education programs, services, or extracurricular activities. Nothing in these rules shall prohibit special education programs, such as specialized vocational training or programs for more severely involved impairment areas, to be housed in places other than the schools with regular education programs, if such programs are set forth in the intermediate school district plan and are approved by the state board of education.

INTERPRETATION:

The policy of the State Board regarding self-contained programs is found in Chapter VII of the Federal Annual Program Plan. Consistent with this Plan, self-contained programs for severely handicapped students may be housed in a regular education building if the following three conditions are met:

1. The program housed in the regular education building is a self-contained program where students spend their school day under the direction of a special education teacher.
2. If an IEPC deems it appropriate for a student or students to participate in any facet of regular education including non-academic environments, the district must assure such interaction will be with regular education students of a comparable age.
3. The program(s) must be specifically identified as being in a regular education building and be written into the ISD plan and approved by the State Board of Education.

R 340.1838-02
I-102
8/20/81

SUBJECT:

ISD Parent Advisory Committee Membership

SPECIFIC ISSUE:

What is required of the intermediate school district board in appointing the parent advisory committee?

RULE BEING INTERPRETED:

The rule being interpreted is R 340.1838. It follows:

(1) A parent advisory committee shall be appointed by each intermediate school district board.

(a) The committee shall consist only of parents of handicapped persons with at least 1 parent from each constituent local school district.

(b) Each constituent local board of education shall nominate at least 1 parent.

(c) The intermediate school district board of education may nominate additional members not to exceed 33 1/3% of the total parent advisory committee membership.

(2) The intermediate board of education shall make every attempt to assure that all types of impairments and all identifiable organizations of parents of handicapped persons within the intermediate school district are represented on the committee.

(3) The parent advisory committee shall have those responsibilities set forth in part 3 of the intermediate school district plan and shall participate in the development of the district's plan for the delivery of special education programs and services as required by R 340.1833.

INTERPRETATION:

The ISD Board shall appoint members to a Parent Advisory Committee. These members shall be parents of handicapped persons (see official interpretation #094) receiving special education within the intermediate school district.

The ISD Board shall include in membership at least one parent from each constituent local school district. This appointment shall be made after receipt of nominations (minimum of 1) from each local district within the ISD.

The ISD Board shall make every attempt to assure that all types of impairment and all identifiable organizations of parents of handicapped persons within the ISD are represented on the committee. All types of impairment means those types of impairment identified in the definition of handicapped person, R 340.1702 found in the Administrative Rules for Special Education. These include severely, trainable, and educable mentally impaired; emotionally impaired; hearing impaired; visually impaired; physically and otherwise health impaired; speech and language impaired; preprimary impaired (after September 1, 1981); severely multiply impaired; and learning disabled. The ISD is not expected to appoint to its PAC parents of persons who have specific handicaps within each category, such as cerebral palsied, deaf-blind, autistic, aphasic, etc.

In some of the smaller ISDs it may not be possible to have a representative from each of the eleven impairment areas. It is suggested that these districts secure representation in the areas most prevalent within their delivery system.

Identifiable organizations of parents of handicapped persons within the ISD means a group of parents who meet on a regular basis and who are affiliated with an organization that is registered with the Department of the Attorney General as a non-profit organization whose goal is to improve services for handicapped persons.

The ISD Board should follow a process to assure that identifiable organizations are represented on the PAC. The process is as follows:

(a) Identify all organizations of handicapped persons.

(b) Review all local constituent district nominations and identify the organizations with whom the nominees are affiliated.

(c) By the process of elimination the ISD Board can identify organizations that do not have representation.

(d) The Board may appoint additional members not to number more than 1/3 of the committee membership. Therefore, the Board may add members to the committee to assure representation of parent organizations.

If there are more organizations than positions on the committee, the ISD Board is encouraged to rotate membership periodically so that all are represented.

School Aid Act 1981-82
ARTICLE 5
I-103
8/25/81

SUBJECT: Questions and Answers Regarding the 1981-82 State Aid Act

The following is provided to assist in your understanding of the provisions for special education funding as presented in Article 5 of the State Aid Act for school year 1981-82. Each section being interpreted is quoted followed by Questions and Answers related to that specific section.

I. Portion of the Act being interpreted is Section 51(1). It reads as follows:

> For meeting the costs of special education programs and services not reimbursed under this article, a district or intermediate district may use money in general funds or special education funds, not otherwise restricted, or contributions from districts to intermediate districts, tuition payments, gifts and contributions from individuals, or federal funds that may be available for this purpose, as determined by the intermediate district plan prepared pursuant to Article 3 of the School Code of 1976.

Question A:	Can an ISD use its general funds to reimburse special education programs?
Answer A:	Yes, ISDs can use general funds to reimburse special education programs. It is the intent of the legislature to allow the ISD to use general funds to reimburse special education programs. This was clarified with Act 87 of the Public Acts of 1981.
Question B:	Can the intermediate district use special education funds generated by its charter millage to reimburse programs and services which do not qualify for state special education categorical reimbursement?
Answer B:	Yes, if authorized by the Department of Education to do so. Section 380.1729 of the School Code of 1976 indicates that these tax revenues may only be used for special education purposes in accordance with rules promulgated by the State Board of Education. Section 340.1811 specifies that these funds may only be used for programs included in the intermediate plan and approved for reimbursement by the department. Intermediate districts may not, for example, use their tax allocation to cover the cost of hot lunch programs or nonapproved special education administrators

since these items are not approved for reimbursement by the department. (See Question and Answer H regarding use of ISD special education funds for reimbursement of teacher aides).

Question C: Can funds be used to reimburse administrative costs not attributed to the administrative responsibilities of a director or supervisor? Example: A district wishes to compensate principals for attending IEPC meetings or use some of the ISD funds to cover the operating expenses of the superintendent's office.

Answer C: No. Section 51(1) of the State School Aid Act indicates that state funds may only be used "for the purpose of reimbursing districts and intermediate districts for special education programs, services, and special education personnel as described in Article 3 of the School Code of 1976." Article 3 authorizes the department to establish rules which identify what can be reimbursed. R 340.1801 through 340.1812 are the specific rules authorizing reimbursement. These rules do not allow special education funds to be used for the purpose of compensating regular education personnel or for the purpose of reimbursing regular education expenses.

II. Portion of the Act being interpreted is Section 51(3)(b). It reads as follows:

> They shall not include salaries or other compensation paid to administrative personnel who are not special education personnel as defined in Section 6(6) of the School Code of 1976. Costs reimbursed by federal funds, other than those federal funds included in the allocation made under this article, shall not be included. Special education approved personnel not utilized full time in the evaluation of students or in the delivery of special education programs, ancillary, and other related services shall be reimbursed under this section only for that portion of time actually spent providing these programs and services, with the exception of special education programs and services provided to youth placed in juvenile detention facilities as defined in R 340.1757 of the Michigan Administrative Code. Only salaries and other compensation paid teacher aides required in rules promulgated by the department or as otherwise approved by the department shall be included.

Question D: What personnel may be reimbursed with special education funds under the State School Aid Act?

Answer D: Section 51(3)(b) indicates that funds under the State School Aid Act may be used to pay "special education personnel as defined in Section 6(6) of the State School Code of 1976." Section 6 of the School Code defines "special education personnel" to mean persons engaged in and having professional responsibility for the training, care, and education of handicapped persons in special education programs and services including, but not limited to, teachers, aides, social workers, diagnostic personnel, physical therapists, occupational therapists, audiologists, teachers of speech and language, instructional media-curriculum specialists, mobility specialists, teacher consultants, supervisors, and directors.

Question E: Can a director of special education or a special education supervisor be employed one-half time in general education and one-half time in special education?

Answer E: No. Pursuant to R 340.1750 and R 340.1751 persons carrying these titles must be employed full-time in special education in order to quality as "special education personnel."

Question F: Can a person be reimbursed with special education funds who is a part-time special education director or supervisor and a part-time special education teacher?

Answer F: No. As indicated in the above response, special education directors and supervisors must be assigned on a full-time basis.

Question G: Section 51(3)(b) of the State School Aid Act indicates that special education approved personnel may receive reimbursement for the time spent evaluating students. Does this mean that school psychologists and social workers may receive state aid reimbursement for the time they spend evaluating students who are handicapped or suspected of being handicapped?

Answer G: Yes. Section 51(1) of the same act clearly indicates that funds used under Article 5 shall be used for "special education programs, services, and special education personnel as prescribed in Article 3 of the School Code of 1976."

R 340.1701(c)(v) of the Michigan Administrative Rules does authorize school psychologists and social workers to provide ancillary and related services to regular education students. This section does not, however, authorize psychologists and social workers serving non-handicapped students to receive special education categorical reimbursement. It is clearly the intent of the legislature to disallow state aid reimbursement for the time psychologists and social workers provide services to regular education students, as specified in Section 51(3)(c) of the State School Aid Act.

It is the school district's responsibility to (1) develop accurate record keeping procedures to account for any division of time that a school social worker or school psychologist spends between special education and general education assignments, and (2) maintain records for review by the department and the intermediate school district auditors to validate requests for state aid.

Question H: Can ISD and local special education funds be used to reimburse non-mandated aides?

Answer H: Yes, Section 380.1729 of the School Code of 1976 provides the Department of Education the authority to authorize the intermediate districts to use their millage to cover the cost of personnel who are not authorized for reimbursement under the State School Aid Act. School districts are hereby authorized by the Department of Education to use their intermediate millage to reimburse aides serving handicapped students who do not qualify for reimbursement under the State School Aid Act.

When local or intermediate districts choose to hire personnel who do not qualify for reimbursement under the State School Aid Act, they must assure that these personnel are not listed on the special education budget or final cost reports (DS-4096).

Question I: Will the Department authorize federal funds to be used to reimburse non-mandated aides?

Answer I: Yes. The Department has authorized school districts to continue to use federal funds to reimburse aides who were employed with federal funds during the 1980-81 school year. Additional aides may not be included in the application for federal funds without specific approval of the State Director of Special Education.

Question J: If the actual cost for operating a federal project exceeds the available federal funds, can the district claim the overage for state aid reimbursement?

Answer J: Costs reimbursed by federal funds, other than P.L. 94-142 flowthrough funds and P.L. 94-142 state initiated grants, are not to be included in calculating the added cost for special education. Any overage in budgets for Title I, P.L. 94-142 preprimary grants, or other federally funded projects may not be included for state aid reimbursement under the added cost formula.

III. Portion of the Act being interpreted is Section 51(3)(c). It reads as follows:

> Reimbursement for ancillary and other related services, as defined by R 340.1701 of the Michigan Administrative Code, shall not be provided when those services are covered and available by private group health insurance carriers or federally reimbursed program sources. Expenses, other than the incidental expense of filing, shall not be borne by the parent. In addition, the filing of claims shall not delay the education of a pupil. A school district shall be responsible for payment of a deductible amount and for an advance payment required until the time a claim is paid.

Question K: How does a school district implement Section 51(3)(c)?

Answer K: School districts should continue to make arrangements for services that are needed to determine eligibility and to make appropriate program placement for handicapped children. In providing these services, school districts should check with the parent to determine if they qualify for any public or private insurance which would cover the cost of medical diagnosis or services (such as occupational and physical therapy). Where the student does qualify for insurance benefits which would offset the cost of special education services, the school district should prepare a bill to the appropriate insurance company identifying the types of services that are being requested and/or provided and request reimbursement.

If the parent has an insurance policy which requires that the parent pay a deductible, the school district is responsible to cover the cost of the deductible and may request the parents to bill the remaining cost directly to their insurance company. The cost should be payable to the physician or medical practitioner so that the parent is not required to make any out-of-pocket expense in order for the child to receive this service.

IV. Portion of the Act being interpreted is Section 53. It reads as follows:

> (1) Reimbursement shall be 100% of the added costs of operating special education programs and services approved by the department and included in the intermediate district plan adopted pursuant to Article 3 of the School Code of 1976 for the special education pupils, including severely mentally impaired, trainable mentally impaired, severely multiply impaired, or otherwise handicapped persons, assigned to a district or intermediate district through the community placement program of the courts or a state agency, if the pupil was a resident of another intermediate district at the time the pupil came under the jurisdiction of the

court or a state agency, and for special education pupils who are residents of institutions operated by the Department of Mental Health; who are residents of nursing homes, foster family homes, alternative intermediate service centers, or foster family group homes which are under contract with the Department of Mental Health; who are placed in a district by a parent for the purpose of seeking a suitable home, and the parent does not reside in the same intermediate district as the pupil's placement; who are residents of nursing homes whose educational programs are approved by the Department of Education; or who are residents of homes for the developmentally disabled which are leased by the state or operated under contract with the Department of Mental Health, or both. Only those costs that are clearly and directly attributable to educational programs for pupils described in this subsection, and that would not in fact have been incurred if the pupils were not being educated in a district or intermediate district, shall be reimbursed under this section.

(2) The added costs of transportation shall be funded under this section but shall not be reimbursed under Article 7.

(3) Not more than $28,600,000.00 for 1981-82 of the allocation in Section 51(1) shall be allocated under this section.

Question L: What are the criteria for receiving reimbursement under Section 53 of the State School Aid Act?

Answer L: The following qualify for Section 53 reimbursement:

(1) Residents of institutions operated by the Department of Mental Health;

(2) Residents of nursing homes whose educational programs are approved by the Department of Education;

(3) Residents of homes for the developmentally disabled which are leased by the state or operated under contract with the Department of Mental Health;

(4) Pupils placed in districts by a parent for the purpose of seeking a suitable home, where the parent does not reside in the same intermediate district as the pupil;

(5) Pupils placed under the community placement program of a court or state agency, if the pupils were residents of another intermediate district at the time they came under jurisdiction of the court or state agency.

Question M: The emergency rules for transportation indicate that the IEP must include special transportation in order for a district to be reimbursed for this cost. Will an IEPC have to be reconvened for persons who were receiving special transportation prior to the effective date of the emergency transportation rules (July 1, 1981) but who do not have this provision written into their current IEP?

Answer M: No. Students receiving specialized transportation prior to the effective date of the emergency transportation rules may continue to receive the specialized transportation without reconvening an IEPC meeting. All IEPC meetings convened after the effective date of the emergency transportation rules must include, if necessary, specialized transportation in order to be reimbursed under Article 7 of the State School Aid Act.

V. Portion of the Act being interpreted is Section 54. It reads as follows:

> In addition to the aid received under Section 52, each intermediate district shall receive an amount per pupil for each pupil in attendance at the Michigan School for the Blind or the Michigan School for the Deaf. This amount shall be proportionate to the total instructional cost at each school. Not more than $897,000.00 for 1981-82 of the allocation in Section 51(1) shall be allocated under this section.

Question N: How will the ISD of residence claim the membership for students enrolled at MSB-MSD?

Answer N: The department will identify students by resident ISDs. Lists of resident students will be sent to the ISD for confirmation. Upon receipt of this information by the department, adjustments will be made to include an appropriate membership count for the ISD. Adjustments for state aid will be made on the bi-monthly payment to school districts.

Question O: How will a school district meet the provisions of Section 54?

Answer O: Tuition for students at MSB-MSD will be calculated by the department. The department will notify the district of the tuition charge per student (instructional costs). Districts will make appropriate calculations based on the number of students served. This information will be placed on the DS-4096 actual cost report according to the directions for Section 54.

FEDERAL ANNUAL PROGRAM PLAN

AMENDED ANNUAL PROGRAM PLAN FOR FISCAL YEARS 1981-83
UNDER PART B, THE EDUCATION FOR ALL HANDICAPPED
CHILDREN ACT OF 1975
AS AMENDED BY P.L. 94-142

(With Amendments for FY 1981-82)

State of Michigan
Department of Education
Special Education Service Area
June 1, 1981

ABSTRACT

The Special Education Service Area of the Michigan Department of Education has prepared the Amended Annual Program Plan for the delivery of special education programs and services for fiscal years 1980-81, 1981-82 and 1982-83 according to the guidelines and rules established under Title VI Part B of P.L. 94-142. Although the plan is not designed to reflect all current programs and services for handicapped children in the state, its content and format conform to requirements prescribed by the U.S. Department of Education.

Three primary documents are referenced throughout the body of the plan and these are included in the Appendices Section: School Code of 1976, the Special Education Administrative Rules, and the Guidelines for Special Education Programs and Services.

The plan contains 18 chapters which include timelines for the full educational goal and sections relating to the following content areas required by P.L. 94-142: right to education, priorities, child identification, individualized educational program, procedural safeguards, least restrictive environments, due process, personnel development, participation of private schools, evaluation and confidentiality.

Chapter XVIII summarizes public opinion solicited during public hearings conducted for the purpose of presenting contents of the plan to groups interested in the education of handicapped children. In addition, it includes procedures relating to draft revisions and dissemination of information regarding the availability of the approved plan for reference.

Revisions resulting from the public hearings are incorporated in this document for implementation in Fiscal Year 1981-82. These revisions are highlighted to emphasize the changes from the Plan originally approved for Fiscal Years 1981-83.

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*Program Suggestions (guidelines) are in the process of update to conform to the revised Special Education Rules.

INTRODUCTION

The purpose of the fiscal years 1980-81, 1981-82 and 1982-83 Annual Program Plan, under Part B of the Education of Handicapped Children's Act, as amended by Public Law 94-142, is to meet the requirements established by the U.S. Department of Education for qualifying school districts within the State of Michigan for receipt of federal funds. The content and format of this plan are prescribed by the U.S. Department of Education. The document basically constitutes the plan for the delivery of special education programs and services for three years, as per requirement of the Office of Special Education. Subsequent amendments are submitted to the OSE to reflect rule changes, new priorities, and other items that may vary during the interim three years. Amendments highlighted on this document reflect changes for fiscal year 1981-82. The plan is not designed to reflect all the programs and activities provided for handicapped children in Michigan.

The criteria for implemeting the requirements of P.L. 94-142 are found in three major documents that are referenced throughout the plan:

1. The School Code of 1976, hereinafter referred to as the School Code, contains the laws which provide for mandatory special education in Michigan. The School Code is included as Appendix A.

2. The rules for implementing Michigan's mandatory law, hereinafter referred to as the Administrative Rules, are included as Appendix B.

3. The Guidelines for Special Education Programs and Services, which explain the rules in order that local and intermediate school districts will have a more complete guide for the operation of their special education programs and services, are included as Appendix C.

The following abbreviations will be used throughout the document:

OSE -- Office of Special Education
SEA -- State Education Agency
USDE -- United States Department of Education
SESA -- Special Education Service Area
ISD -- Intermediate School District
LEA -- Local Education Agency
SBE -- State Board of Education

CHAPTER I. RIGHT TO EDUCATION POLICY STATEMENT

Michigan has in effect a policy which insures that all handicapped children have a right to a free appropriate public education as required in Sections 300.121 through Sections 300.122 of the regulations for P.L. 94-142.

Rights of the Handicapped to an Education

R 340.1702 of the Michigan Administrative Rules, Appendix B, defines the term handicapped persons:

> "Handicapped person" means a person determined by an individualized educational planning committee or a hearing officer to have a characteristic or set of characteristics pursuant to R 340.1703 to R 340.1714 that necessitate special education and related services. Determination of an impairment shall not be based solely on behaviors relating to environmental, cultural, or economic differences.

The rights of handicapped persons to an education are fostered in the Constitution of the state of Michigan.

Article 8, Section 2.

> The legislature shall maintain and support a system of free public elementary and secondary schools as defined by law. Every school district shall provide for the education of its pupils without discrimination as to religion, creed, race, color or national origin.

Article 8, Section 8.

> Institutions, programs and services for the care, treatment, education or rehabilitation of those inhabitants who are physically, mentally, or otherwise seriously handicapped shall always be fostered and supported.

The equal opportunity provisions apply to all handicapped children as required in Section 300.121c. of the Federal regulations for P.L. 94-142. The right of the handicapped to a free and appropriate public education is assured by the mandatory special education provisions of Article 3 of the School Code of 1976. Specific provisions regarding special education programs and services state that a student, who is otherwise qualified, shall not be denied the right to attend school because of a physical, emotional, mental, or learning disability. Otherwise qualified means the student has been determined to be handicapped, is between the ages 0 through 25, and has not graduated from high school.

Section 402(e) of Act 220 of the Public Acts of 1976 indicates that educational institutions shall not:

> Announce or follow a policy of denial or limitation, through a quota or otherwise, of educational opportunities to a group or its members because of a handicap that is unrelated to the group or member's abilitiy to utilize or benefit from the institution or its services, or because of the use by the members of a group or an individual in the group, of adaptive sevices or aids.

Accordingly, school distsricts are required to assure that qualified handicapped students have the same opportunity to enroll in and benefit from programs and services as other students of the same age, grade and/or ability. This includes the opportunity to enroll in physical education, vocational education and the extracurricular activities offered by the school district. In determining accessibility, assurances pertaining to Section 504 of the Rehabilitation Acts of 1973 should likewise be established.

Homebound and hospitalized services for handicapped students shall be initiated within 15 school days after certification by a licensed physician of a medical handicap which requires the person to be confined to the home, unless a competent medical authority indicates the student is too ill to learn or receive instruction.

Free Appropriate Public Education

Appropriate Special Education means educational programs and services designed to meet the individual needs of each handicapped student. The procedures and policies regulating the Individualized Educational Planning Committee and the IEP constitute the basis of a student's appropriate education. The following chapters describe these procedures and policies in more detail. Chapter IV deals with the identification of handicapped children, Chapter V presents the procedures for assigning handicapped children to special education programs and services, Chapter VI describes the procedural safeguards to assure that the rights of handicapped children are considered in the assignment, and Chapter VII details the responsibility of school districts for making placements within the least restrictive environment.

Free Education is defined to mean education that is provided without expense to the student or parent. A free education includes the cost of:

1. Instruction provided by a local district, intermediate district, the Michigan School for the Blind, the Michigan School for the Deaf, the Department of Mental Health, or the Department of Social Services, as required in Section 1751(1) of the School Code; (Appendix A)

2. Related services for evaluation, supplemental instruction, or training required by students in order to benefit from the educational program, as required in Section 1751 of the School Code;

3. Transportation for handicapped students to and from school where transportation is required for the student to get from home to school, from one school site to another, or from one program or service site to another, as required in Section 1756 of the School Code;

4. Room and board for handicapped persons who are sent away from home by the school district for the purpose of receiving special education or related services, as required by Section 1761 of the School Code;

5. Supplies and equipment at least equal to those provided to other students in regular education programs and, in addition, supplies and equipment necessary to meet their defined performance objectives, as required in R 340.1733(i) of the Administrative Rules;

6. Diagnosis or reevaluation required for determination of eligibility under R 340.1721(a) of the Administrative Rules;

7. Reevaluation required by the public agency at least once every three years under the provisions of Section 300.534 of the Rules of P.L. 94-142 and R 340.1722(d) of the Administrative Rules;

8. Additional diagnostic services recommended by the Individualized Educational Planning Committee and required by the school district, including neurological, medical and psychiatric and other professional services not provided by the school district, other public agencies, or covered by medical insurance, shall be borne by the handicapped person's district of residence, as required by R 340.1733(1) of the Administrative Rules; and

9. The cost of ancillary or related services needed for educational purposes. Costs related to rehabilitation, medical treatment or therapy, psychological or psychiatric treatment, or life supports are the responsibility of the parents. Resources are available from rehabilitation agencies, Medicaid, Michigan Crippled Children Committee, Departments of Mental Health, Public Health, and Social Services, as well as county agencies and private insurance companies.

School districts are not required to provide or otherwise cover the costs of the following items described in the State Board of Education Position Statement on Free Textbooks, Materials and Charging of Fees:

1. Extracurricular activities when students are not graded or evaluated and credit is not given, or for any other activity in which participation is not required;

2. Voluntary extracurricular activities such as attendance at the special olympics or other nonrequired sporting events, plays, movies or concerts where there is an admission fee or other costs;

3. Band and orchestra when not part of the regular school day and no grade, evaluation, or credit is given for the course;

4. Summer school programs; and

5. Clothes and food, unless required by the district, such as food for home economics class, towels for drying after swimming class, etc.

Application of Free Appropriate Public Education Requirements to all State Agencies

Section 300.301 of the Federal regulations requires that all public educational agencies provide a free appropriate education. Section 6 of the School Code of 1976 defines special education and identifies agencies authorized to provide special education programs and services in the state:

> Special education programs and services mean those educational and training services designed for handicapped persons operated by local school districts, local act school districts, intermediate school districts, the Michigan School for the Blind, the Michigan School for the Deaf, Department of Mental Health, Department of Social Services, or a combination thereof, and ancillary professional services for handicapped persons rendered by agencies approved by the State Board. The programs shall include vocational training but need not include academic programs of college or university level.

The Constitution of the state of Michigan identifies the State Board of Education as the responsible agent for all education programs. Section 3 of Article 8 of the Constitution states:

> Leadership and general supervision over all public education, including adult education and instructional programs in state institutions, except as to institutions of higher education granting baccalaureate degrees, is vested in a state board of education. It shall serve as the general planning and coordinaating body for all public education, including higher education, and shall advise the legislature as to the financial requirements in connection therewith.

Timelines, Ages and Priorities for Free Appropriate Public Education

Michigan's mandatory special education law went into effect in school year 1973-74. Since then, the right to a free appropriate public education has been made available to all handicapped persons, ages 0 through 25, who have not completed a normal course of study or received a high school diploma. The first priority was to assure that all handicapped children were placed in relating specific programs.

Handicapped students who have either dropped out or reached age 26 and not graduated from high school, have the same opportunity as other students to enroll in adult basic education programs or other alternative educational programs for which they qualify.

However, school districts cannot assign handicapped students to adult basic education or other alternative educational placements in lieu of special education.

State law requires that each of Michigan's 58 intermediate education units, referred to as intermediate school districts (ISD), develop a plan that specifies the manner for implementing the requirements for a free appropriate public education. The rules established by the State Board require each plan to identify how and where handicapped students are to be served. The ISD plan must describe the delivery system for children 0 through 5, who will need special intervention to prepare them for entry into school and for handicapped persons ages 18 through 25, who are not capable of completing the regular education curriculum. Part 7 of the Administrative Rules (Appendix B) contains the procedure to be used by each ISD to assure that all handicapped persons 0 through 25, who have not graduated from high school, have access to appropriate special education programs and services.

Chart 1 provides a summary of the timelines for assuring a free appropriate public education to handicapped persons ages 0 through 25.

CHART 1

TIMELINES FOR PROVISION OF FREE APPROPRIATE PUBLIC EDUCATION

Outcomes	
Passage of P.A. 198, The Michigan Mandatory Special Education Act	December 22, 1971
Implementation of rules on P.A. 198	October 10, 1973
Inclusion of Mandatory Act in School Code of 1976	January 13, 1977
Amendment of rules on Special Education	January 14, 1977
Initiation of comprehensive Child Find efforts	July 1, 1977
Placement of all handicapped children in special education programs and services	September, 1978
Establishment of ISD Plan criteria (Section 216) by State Board of Education for ISD use in monitoring appropriateness of student placements	1978
Monitoring by ISDs of all programs and services to determine compliance with state and federal regulations as defined in this APP	1979
Provision of free appropriate public education to all handicapped children	September, 1980
Revision of rules on Special Education to more fully conform with P.L. 94-142	August 13, 1980

CHAPTER II. FULL EDUCATIONAL GOAL AND TIMELINES

The State Board of Education established the Common Goals of Michigan Education in 1971. These goals serve as statements of broad direction and general purpose for Michigan's educational system. One of these goals is to assure equality of educational opportunity to the handicapped.

> Michigan education must recognize and provide for the special educational needs of exceptional persons. This recognition must extend to those who are academically talented and to those who are considered physically, mentally, or emotionally handicapped.
>
> Regarding the handicapped, Michigan education must further assure that its procedures concerning the testing and evaluation of children tentatively identified as being mentally or emotionally handicapped do not unduly penalize minority or low socioeconomic status children by precipitous referral and placement into special education.

Although this recognition encompasses the academically talented, special education considers only the educational needs of the learning disabled and the physically, mentally and emotionally handicapped for program purposes.

Every effort must be made to achieve the maximum progress possible for handicapped students by facilitating their movement into or out of special classes.

The State Board of Education has established rules requiring each educational agency to assure that all handicapped students ages 0 through 25, who have not completed a normal course of study and graduated from high school, have access to a full continuum of special education programs and services as a means of attaining their full potentials.

Table I of this chapter presents the timetable for the full educational opportunity goal.

The State Board of Education has established rules and policies for implementing the goals of full educational opportunity for Michigan's handicapped students. Part VII of the Michigan Special Education Code (Administrative Rules, Appendix B) identifies the responsibility of educational agencies for identification, referral, diagnosis, determination of eligibility, and development of individualized educational programs for handicapped children and adults.

SEA collects data on an annual basis through established processes utilizing a number of data collection instruments: DS-4061, DS-4096, SE-4568, SE-4625, SE-4661, etc. Data is analyzed for such programmatic purposes as calculation of state aid to school districts, allocation of project funds, accountability and projections of personnel needs.

Tables IA, IB, and IC project the estimated numbers of personnel needed to meet the full educational opportunities goal for handicapped children for fiscal years 1980-81, 1981-82, and 1982-83 respectively. The data as reflected do not indicate needs by school districts since estimations are calculated on aggregated state counts by diagnostic categories. This information is relayed to colleges and universities so that they can direct persons interested in a career in special education to seek training in a field where there is a projected need.

This system will help assure the availability of adequately trained personnel needed to continue to meet the goal of full educational opportunity for Michigan's handicapped students.

Chapter IX, Comprehensive System on Personnel Development, presents in more detail the SEA plans and activities relating to both preservice and inservice. It likewise details the interface between the SEA, the school districts and the teacher training institutions in activities that shall establish the availability of appropriately-trained personnel to meet the needs of handicapped students.

Elimination of Architectural Barriers

In order for the SEA to attain the full educational goal, provisions regarding physical accessability of programs and services have been established. SEA has contracted for the development of a document on barrier-free design entitled "Barrier-Free Design School Building Survey and Graphics." This document has been approved by the Department of Education and has been distributed through an inservice model to all LEAs, ISDs and other state agencies. Inservice sessions have been provided to personnel in both regular and special education to generate awareness regarding the necessity of accessability to programs and services in the pursuit of the full educational goal. On-site consultation has been provided to school districts to assist in the development of plans to identify, prioritize and eliminate architectural barriers where these barriers preclude program accessibility as required by Section 504 of the Rehabilitation Act of 1973.

TABLE I. - DETAILED TIMETABLE

DATE 02/01/81

NAME OF STATE Michigan

Show the percent (%) of the State's population of handicapped children expected to be receiving full educational opportunities in each school year. In the appropriate cells, *estimate the year you expect all children to be provided full educational opportunities *(full service)*.

HANDICAPPING CONDITIONS	A. AGES 3 THRU 5			B. AGES 6 THRU 17		C. AGES 18 THRU 21					D. AGES 0 THRU 2 ESTIMATE THE YEAR FULL SERVICES ARE EXPECTED TO BE REACHED. SCHOOL YEAR NON-CATEGORIAL
	SCHOOL YEAR 1977-78(%)	(%) SCHOOL YEAR 1978-79	ESTIMATE YEAR* OF FULL SERVICE	SCHOOL YEAR 1977-78(%)	(%) SCHOOL YEAR 1978-79	SCHOOL YEAR 1977-78(%)	(%) SCHOOL YEAR 1978-79	(%) SCHOOL YEAR 1979-80	(%) SCHOOL YEAR 1980-81	ESTIMATE YEAR* OF FULL SERVICE	
a. Mentally Retarded	100%	100%	1978	100%	100%	100%	100%	100%	100%	1978	1978
b. Hard of Hearing	100%	100%	1978	100%	100%	100%	100%	100%	100%	1978	
c. Deaf	100%	100%	1978	100%	100%	100%	100%	100%	100%	1978	
d. Speech Impaired	100%	100%	1978	100%	100%	100%	100%	100%	100%	1978	
e. Visually Handicapped	100%	100%	1978	100%	100%	100%	100%	100%	100%	1978	
f. Seriously Emotionally Disturbed	100%	100%	1978	100%	100%	100%	100%	100%	100%	1978	
g. Orthopedically Impaired	100%	100%	1978	100%	100%	100%	100%	100%	100%	1978	
h. Health Impaired	100%	100%	1978	100%	100%	100%	100%	100%	100%	1978	
i. Specific Learning Disability	100%	100%	1978	100%	100%	100%	100%	100%	100%	1978	

*If these requirements are inconsistent with your State law, or practice, estimate the year you expect to reach full services in these areas.

PART B--DATA TABLE #1A

PROJECTED NUMBER OF ADDITIONAL PERSONNEL*(IN FULL TIME EQUIVALENTS) NEEDED TO MEET/MAINTAIN THE FULL EDUCATIONAL OPPORTUNITIES GOAL FOR HANDICAPPED CHILDREN IN THE SCHOOL YEAR 1980-1981

Personnel / Handicapping Conditions	1 Special Education Teachers	2 Psychologists	3 School Social Workers	4 Physical Therapists	5 Occupational Therapists	6 Home-Hospital Therapists	7 Speech Pathologists	8 Audiologists	9 Teacher Aids	10 Vocational Education Teachers	11 Work-Study Coordinators	12 Physical Education Teachers	13 Recreation Therapists	14 Diagnostic Staff	15 Supervisors	16 Other Non-Instructional Staff	17 TOTAL
TOTAL (a)	1392.29	183.55	0	56.64	0	[1]	[2]	10	.00	160.52	[3]	[3]	[3]	[4]	29.37	0 [5]	1832.37
MENTALLY RETARDED (b)	0																
HARD OF HEARING (c)	83.39																
DEAF (d)																	
SPEECH IMPAIRED (e)	90																
VISUALLY HANDICAPPED (f)	29.40																
SERIOUSLY EMOTIONALLY DISTURBED (g)	0.																
ORTHOPEDICALLY IMPAIRED (h)	72.38																
HEALTH IMPAIRED (i)																	
SPECIFIC LEARNING DISABILITIES (j)	1078.52																
DEAF-BLIND [6] (k)																	
MULTIHANDICAPPED (l)	3860																

NOTE: These are projected state aggregate needs based on trends of actual pupil counts. These projections do not account for: (a) anticipated normal personnel attrition; (b) variance in teacher-staff-pupil ratios caused by variance in incidence rates; and (c) prospective personnel in training at institutions of higher education.

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*Personnel needed for 1980-1981 in addition to those currently employed

[1] Personnel included with #4

[2] Personnel included with teachers (e)

[3] Personnel included with #10

[4] Personnel included with #2

[5] Directors, curriculum resource consultants/specialists

[6] Not diagnostic category in MI. Students counted in primary handicap (visually or hearing impaired).

PART B—DATA TABLE #1B

PROJECTED NUMBER OF ADDITIONAL PERSONNEL*(IN FULL TIME EQUIVALENTS) NEEDED TO MEET/MAINTAIN THE FULL EDUCATIONAL OPPORTUNITIES GOAL FOR HANDICAPPED CHILDREN IN THE SCHOOL YEAR 1981-1982

Handi-capping Conditions / Personnel	1 Special Education Teachers	2 Psychologists	3 School Social-workers	4 Physical Therapists	5 Occupational Therapists	6 Home-hospital Therapists	7 Speech Pathologists	8 Audiologists	9 Teacher Aids	10 Vocational Education Teachers	11 Work-Study Coordinators	12 Physical Education Teachers	13 Recreation Therapists	14 Diagnostic Staff	15 Supervisors	16 Other Non-Instructional Staff	17 TOTAL
TOTAL (a)	168.39	2.67	2.67	.57	.57	[1]	[2]	.30	11.55	.48	[3]	[3]	[3]	[4]	.96	.58 [5]	188.74
MENTALLY RETARDED (b)	5.83																
HARD OF HEARING (c)	1.42																
DEAF (d)																	
SPEECH IMPAIRED (e)	92.39																
VISUALLY HANDICAPPED (f)	.37																
SERIOUSLY EMOTIONALLY DISTURBED (g)	3.22																
ORTHOPEDICALLY IMPAIRED (h)	.95																
HEALTH IMPAIRED (i)																	
SPECIFIC LEARNING DISABILITIES (j)	63.65																
DEAF-BLIND (k) [6]	—																
MULTIHANDICAPPED (l)	.56																

NOTE: These are projected aggregate needs based on trends of actual pupil counts. These projections do not account for: (a) anticipated normal personnel attrition; (b) variance in teacher-staff-pupil ratios caused by variance in incidence rates; and (c) prospective personnel in training at institutions of higher education.

Projections for personnel for speech impaired and seriously emotionally disturbed will be affected by the anticipated implementation of proposed new rules on teacher-pupil ratios and the definition of a separate category for autistic students. Table 1-C projects these anticipated changes.

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*Personnel needed for 1981-1982—assume that your State's previous year's personnel needs (Table #1A) have been met.

[1] Personnel included with #4

[2] Personnel included with teachers (e)

[3] Personnel included with #10

[4] Personnel included with #2

[5] Directors, curriculum resource consultants/specialists

[6] Not diagnostic category in MI. Students counted in primary handicap (visually or hearing impaired).

PART B--DATA TABLE #1C

PROJECTED NUMBER OF ADDITIONAL PERSONNEL*(IN FULL TIME EQUIVALENTS) NEEDED TO MEET/MAINTAIN THE FULL EDUCATIONAL OPPORTUNITIES GOAL FOR HANDICAPPED CHILDREN IN THE SCHOOL YEAR 1982-1983

Handicapping Conditions / Personnel	1 Special Education Teachers	2 Psychologists	3 School Social-workers	4 Physical Therapists	5 Occupational Therapists	6 [illegible] Therapists	7 Speech Pathologists	8 Audiologists	9 Teacher Aide	10 Vocational Education Teachers	11 Work-Study Coordinators	12 Physical Education Teachers	13 Recreation Therapists	14 Diagnostic Staff	15 Supervisors	16 Other Non-Instructional Staff	17 TOTAL
TOTAL (a)	714.30	4.45	4.45	.45	.95	[1]	[2]	10.16	91.22	.80	[3]	[3]	[3]	[4]	1.60	.96 [5]	829.3
MENTALLY RETARDED (b)	9.71																
HARD OF HEARING (c)	2.16																
DEAF (d)																	
SPEECH IMPAIRED (e)	464.43																
VISUALLY HANDICAPPED (f)	.61																
SERIOUSLY EMOTIONALLY DISTURBED (g)	72.00																
ORTHOPEDICALLY IMPAIRED (h)	1.50																
HEALTH IMPAIRED (i)																	
SPECIFIC LEARNING DISABILITIES (j)	127.80																
DEAF-BLIND (k) [6]	—																
MULTIHANDICAPPED (l)	.94																

NOTE: These are projected aggregate needs based on trends of actual pupil counts. These projections do not account for: (a) anticipated normal personnel attrition; (b) variance in teacher-staff-pupil ratios caused by variance in incidence rates; and (c) prospective personnel in training at institutions of higher education.

Projections for personnel for seriously emotionally impaired are computed at anticipated ratio of 1 teacher - 1 aide per 5 pupils for the estimated autistic students within the category.

Projections for personnel for the speech impaired are computed at the anticipated change in teacher-pupil ratio from 1:75 to 1:60, as per proposed special education rules in the state.

---

*Personnel needed for 1982-1983--assume that your State's previous personnel needs (Table #1B) have been met.

[1] Personnel included with #4

[2] Personnel included with teachers (e)

[3] Personnel included with #10

[4] Personnel included with #2

[5] Directors, curriculum resource consultants/specialists

[6] Not diagnostic category in MI. Students counted in primary handicap (visually or hearing impaired).

CHAPTER III. POLICY ON PRIORITIES

The priorities as set forth in P.L. 94-142 correspond with those specified in the Michigan Special Education Mandatory Law. These priorities are hereby listed and described:

Priority I:

Provision of programs and services to handicapped persons, ages 0 through 25, who are not receiving any education.

Priority II:

Provision of programs and services to handicapped persons, ages 0 through 25 within each disability, starting with the most severely handicapped who are receiving partial but not total special education and related services considered appropriate and necessary to develop their maximum potential.

Michigan's Proposed Spending Plan

For the 1981-82 through 1982-83 fiscal years, SEA will provide approximately 87% of the state's expected total federall entitlement as direct flowthrough to intermediate school districts. Flowthrough allocations to school districts shall be based on special education pupil count and corresponding applications. For projects to be approved, project plans must be consistent with the ISD plans and signed by the ISD superintendent to assure their implementation, and include assurances regarding P.L. 94-142.

The intermediate school district, in cooperation with local school districts (LEAs) shall develop applications for funding of programs and services under the authorization of P.L. 94-142. Approved projects may be operated by either the LEA or the ISD. All programs and services, and any contractual arrangements with LEAs, shall become a part of the total delivery system in the ISD plan. (Appendix D)

As of July 1, 1981, unencumbered P.L. 94-142 flowthrough and preschool incentive funds may be carried forward for the purpose of meeting the priorities established by Congress under the authorization of this Act, particularly as these relate to training and priorities specified in this plan. However, these funds cannot be obligated after September 30, 1982.

Proposed FY 1982 Spending Plan as Authorized Under P.L. 94-142

This State Education Agency conducted a statewide survey in September of 1980 to assess priorities necessary to meet the full educational opportunity goal for handicapped persons as stated in the previous Chapter. The purpose was to solicit public opinion regarding perceived statewide needs. Chart 3 on page 27 reflects the SEA process on the establishment of priorities for emphasis. The same process shall be used in identifying new or reaffirming current priorities for fiscal year 1982-83. All projects identified in this state plan will be processed according to the following procedures: (a) the

State Board of Education will approve procedures for the funding of each project; (b) local school districts and/or intermediate school districts will be notified of the opportunity to submit project applications for each project; (c) all project applications will be reviewed by external raters and staff will prepare recommendations for approval by the Board; and (d) when appropriate, projects will be let through the Department contract/bid procedures. Each project shall provide the State Board of Education with an annual report which includes specific program description, analysis, and budget. The formula used to allocate funds to local and intermediate school districts shall be approved by the State Board of Education. A report of all unencumbered funds will be made to the State Board of Education. Staff will present recommendations for the expenditure of those funds to the State Board of Education for approval.

The following spending plan has been drafted to conform to needs identified through this process. The various projects chosen for funding as state-authorized priorities are explained in more detail on the pages that follow:

Spending Plan
FY 1981-82

I. Grant Award for 1981-82			
145,004 students x $235.00 =			$34,075,940
II. Proposed Distribution			
A. Flowthrough to districts			29,594,143*
B. Proposed allocation for state-authorized priorities			
1. Project Find		$ 75,000	
2. Coordination of Planning, Monitoring and Data Collection in ISDs		1,540,000	
3. Development of Regional Programs According to Priorities of P.L. 94-142		100,000	
4. Special Education Learning Materials Centers		300,000	
5. Demonstration, Research, Model Programming		635,000	
(a) Teacher/pupil ratios and use of instructional aides	$ 20,000		
(b) Evaluation of Special Education Delivery System	20,000		
(c) Length of school year	125,000		
(d) Statewide centers on materials for visually impaired	200,000		
(e) Center for Adaptive aids and Equipment	25,000		
(f) Identification, diffusion & dissemination of information on model programs (SCADS)	150,000		
(g) Prevocational Education Project	30,000		
(h) Migrant/bilingual handicapped children in special education programs/services, with emphasis on age, race, sex data	10,000		
(i) Evaluation of effectiveness of the Michigan Monitoring Model	25,000		
(j) Music education for the handicapped	10,000		

*Approximately 87% of total anticipated funds.

(k) MEAP tests for special education students	$ 10,000	
(l) MLRC-related testing for special education students	10,000	
6. Inservice Training Activities on/for the following:		$ 128,000
(a) Comprehensive System of Personnel Development (Ch. IX)	50,000	
(b) Development of program suggestions for implementing the revised special education rules	33,000	
(c) Role of the hearing officers and the investigation process	20,000	
(d) Diagnostic/treatment teams for hearing impaired students with behavioral/emotional problems	15,000	
(e) Autism: Teachers and Diagnostic Personnel	10,000	
Subtotal		2,778,000*
C. State Administration		1,703,797**
Subtotal		4,481,797
GRAND TOTAL		34,075,940

* Approximately 8% of anticipated P.L. 94-142 funds.
** Approximately 5% of anticipated P.L. 94-142 funds.

The following provides a more detailed discussion of the proposed distribution of P.L. 94-142 funds.

A. Flowthrough to Districts.

Approximately 87% of the total funds generated under P.L. 94-142 shall be distributed to school districts. Distribution of these funds shall be based on the actual headcount of handicapped students reported by the school districts. Each school district shall submit a plan specifying how these funds shall be allocated by the district. The plan must provide for a minimum of 3% of the funds received for use in personnel development activities. These shall be conducted in accordance with procedures identified in R 340.1733(o) of the Michigan Administrative Rules and included in the ISD plan for expenditure of flowthrough funds. The Plan must be developed in accordance with Chapter IX, the Comprehensive System of Personnel Development. The Department of Education may allocate funds beyond the projected formula to include the distribution of carryover funds, funds received in excess of the estimated grant award for FY 1981-82 as specified in this chapter, or funds received from any other supplemental appropriation that might be provided by the Congress under Part B of P.L. 94-142. All flowthrough funds shall be distributed in accordance with Priority I and Priority II as specified by law. An added cost formula shall be used to assure the equitable allocation of funds and resources to intermediate school districts. The application of the formula on projects shall be based on the review of criteria specified in SE-4625 (Appendix K) that relate to needs for service, appropriate anticipated activities to meet identified needs, and numbers of handicapped students to be served. Approval of projects shall be primarily based on the correlation of proposed workscopes with services to meet the needs of Priority I and II students. All funds shall be expended through applications received and approved in accordance with the procedures established by the Michigan State Board of Education and relating rules under Part B of P.L. 94-142.

B. State-Authorized Priorities

Amounts quoted hereon are considered the maximum for the conduct of specified activities.

1. Project Find $ 75,000

Special Education Services, through a continued contract with Mott Children's Health Center via Genesee ISD will continue to provide leadership and support to local and intermediate school districts to promote ongoing efforts to identify all handicapped children in need of special education intervention. The Department of Education, through this project, will continue to:

(a) Coordinate statewide awareness campaigns;
(b) Develop and disseminate awareness media materials;
(c) Disseminate information on effective Project Find methods that local and intermediate school districts have found successful;

(d) Request that each intermediate plan identify the procedures and persons responsible for coordinating Project Find activities;
(e) Continue the toll-free telephone information and referral service;
(f) Hold statewide Project Find conferences;
(g) Collect data and establish methods of assessing the effectiveness of the state level Project Find effort;
(h) Disseminate state Project Find information to professionals in related fields of public health, social services, vocational rehabilitation, mental health, medicine, child development;
(i) Convene a Project Find Advisory Committee representing educational and other agencies, and parent organizations;
(j) Provide consultation to intermediate school district Project Find coordinators upon request;
(k) Develop a method of assessing the effectiveness of intermediate school district Project Find methods;
(l) Adopt criteria upon which intermediate school district plans shall specify procedures and responsibilities and recommend procedures for use by the Department in evaluating the effectiveness of ISD child identification activities; and
(m) Conduct inservice training for intermediate school district superintendents, directors of special education, intermediate school district coordinators of planning, Project Find coordinators, and representatives from Parent Advisory Committees on criteria (per l above) for inclusion of child identification in the 1982-83 intermdiate plans.

2. Coordination of Planning, Monitoring, Data Collection $1,540,000

Funds of about $27,000 shall be provided to each school district on a project basis to enable them to continue funding the person responsible for collecting accurate data and otherwise assuring that all handicapped students are identified, evaluated and placed, and provided other needed services to assure the implementation of free appropriate public education programs for all handicapped children within the intermediate school districts.

This person coordinates the following activities:

(a) Maintenance of the student registry and conduct of periodic audits regarding its validity;
(b) Collection and editing of the following MDE forms, verification of their accuracy, and timely submission to the appropriate service areas:
    1. DS-4061 membership reports and the DS-4096 final cost reports (submitted to Department Services)

2. SE-4568, December 1 Special Education Student Count (submitted to the Special Education Service Area)
3. SE-4625 Title VI-B, P.L. 94-142 application (submitted to the Special Education Service Area)

(c) Preparation of all intermediate education unit Title VI applications, monitoring of project progress and timely submission of the year-end reports.

(d) Meetings with the parent advisory committee on at least a quarterly basis to provide for communication and dissemination of current and pressing issues regarding the special education delivery system.

(e) Meetings with LEA and ISD personnel regarding Michigan Department of Education intermediate district plan criteria and modifications as required under P.A. 198 and P.L. 94-142.

(f) Reporting of all cases of noncompliance regarding the intermediate plan and assisting in the final resolution of those problems. Development of procedures to monitor compliance to the intermediate plan and assisting in implementation of corrective action.

(g) Review of applications and provision of technical assistance to school districts on projects submitted regarding professional development, demonstration, and research activities.

The primary emphasis of coordination for FY 1982 shall be the provision of assistance to ISDs to meet their obligations under P.L. 94-142, particularly those on data collection and monitoring.

3. Development of Regional Programs According to Priorities of P.L. 94-142 $ 100,000

Funds under this authorization is established for use by SEA in initiating programs for handicapped youth in correctional facilities and in maintaining and coordinating programs for low incidence disability areas. Allocation shall be based on results of actual needs analysis and applications for relating projects.

The State Board of Education has established a goal for Special Education Services to assure the availability of programs for low incidence disabilities (deaf, blind, autistic, severely emotionally impaired, etc.) in every geographic area of the state, and for incarcerated youth who are determined handicapped and in need of special education intervention. The need for these funds will be determined by Special Education Service Area staff based on an analysis of available programs for these disability groups. Funds will be used to initiate or enhance programs and support them for a period not to exceed three years. At that time, arrangements will be made for the programs to be transferred to other funding sources.

4. Special Education Learning Materials Centers $ 300,000

The amount of $300,000 is proposed for allocation through the Special Education Learning Materials Centers (SELMC) for the purpose of continuing to develop and provide access to special education learning media and inservice training related to such media. It is expected that closer cooperative ties will be established with the Regional Educational Media Centers and that less funding for media itself will be necessary. The curriculum resource consultants are expected to assist administrators in the conduct of inservice activities if so assigned.

Distribution of funds shall be in accordance with an allocation base for all ISDs and the actual number of special education students being provided services at each of the school districts.

5. Demonstration, Research, Model Programming $ 635,000

These are special concerns determined from current needs perceived by the State Board of Education, and provider and consumer groups. Grants allocated for these purposes are apportioned accordingly and respective allocations shall be the maximum for the conduct of specified activities.

(a) Teacher/Pupil Ratios and Use of Instructional Aides
($20,000)

This study purports to investigate current teacher/pupil ratios in various diagnostic categories. It will likewise gauge various ratio configurations as they relate to the use of instructional aides. The focus for this project is the ratio for speech and language, autistic, and severely emotionally impaired groups. The study may also include a specific component on the TC role, caseload and corresponding training and/or preparation, specifically as these relate to low and high incidence populations.

(b) Evaluation of Special Education Delivery System
($20,000)

The State Board of Education has identified the need to assess the effectiveness of special education programs and services, particularly as these relate to impact on handicapped students, financial accountability, etc. During 1981-82, parameters for evaluation will be determined and corresponding instrumentation will be developed to constitute the basis of a model that could be used statewide.

(c) Length of the School Year
($125,000)

The primary objective of the study is to determine the effectiveness of the 230 versus the 180 day school year for the severely emotionally impaired and severely multiply impaired and the potential effectiveness of same for all mentally impaired. Activities for FY 1981 include the following: (1) review of literature and delivery system in other areas; (2) analysis of the various disability groups; and (3) development of research instrumentation and/or relating evaluation design. Activities for 1981-82 will focus on the implementation and validation of the research design.

(d) Statewide Center on Materials for Visually Impaired
($200,000)

The centralization of existing services and the development of new strategies to deliver these services to visually impaired persons throughout Michigan are needed to establish a functional centralized system for the maximum utilization of appropriate media, consultation and information.

The Michigan Department of Education, in order to meet the educational needs of visually impaired persons, develops and coordinates a statewide system of appropriate media, consultation and information services. The objectives of the project are:

A. Coordination
B. Administration, staffing and budgeting
C. Central registry of users and their learning modalities
D. Depository: search, acquisition, storage & dissemination
E. Statewide inventory and control
F. Projection
G. Evaluation of:
    1. Statewide service
    2. Existing materials
    3. Student match
    4. New materials
H. Information services (clearinghouse concept)
I. Inservice training
J. Consultation
K. Volunteer services

In FY 1982, the center shall continue the provision of services to handicapped students other than the visually impaired, who may benefit from the use of materials and/or other resources.

(e) Center for Adaptive Aids and Equipment
($25,000)

Activities for FY 1981 include the evaluation of instruments, aids, and devices -- the extent of their use by the handicapped populations in the state, their effectiveness and benefit to users, and other relating information. Funds for FY 1981-82 will allow the center to expand its services and provide more assistance to more people: handicapped, parents, and providers.

(f) Identification, diffusion, and dissemination of information on model programs (SCADS)
($150,000)

The following ongoing activities are carried out in conjunction with the design and intent of this program:

Provide a communication and interpretation link between local and intermediate school districts, the state department, and other pertinent groups;

Disseminate vital information regarding special education to special education personnel & consumer groups;

Coordinate inservice workshops for special education personnel on pressing issues facing the special education field;

Maintain constant awareness in regards to state and federal grant opportunities and share them with the field. This activity will be carried out via the Federal Register, Congressional Quarterly, Education Daily, Education of the Handicapped and the National Administrators of State Directors of Special Education publications.

Condense proposed legislation into short analytical and descriptive briefs and make them available to administrators of special educaiton, other special education personnel, and special education consumer groups;

Publish a newsletter on a monthly basis;

Develop an effective and efficient information dispersal system;

Provide updates to educational and consumer organizations on all pending inservice and dissemination documents via the information dispersal system;

Compile an annual listing of name, address, telephone number, etc., of all special education directors, supervisors, and coordinators of planning, monitoring and data collection;

Provide a statewide toll free information hotline to apprise the field of pending legislation and other selected topics of crucial concern;

Provide facilities for group meetings to administrators and others involved with special education;

Assist with specified problems as facilitators in the following areas: State and federal resources available to districts and an available human resources list of professionals, both state and national, to aid in the resolution of problems; and

Perform any other functions specified by the project administrative board and/or the State Director of Special Education and/or the State Board of Education, with the understanding that the administrative board would no longer consist of only administrators but consumers, teachers, and the like.

(g) Prevocational Education Project
($30,000)

Grants will be provided to LEAs and ISDs to develop and validate model junior high delivery systems. Vocational Education Services shall continue to provide consultation to special education personnel.

(h) Migrant/Bilingual Handicapped Students in Special Education Programs and Services, with Emphasis on Age, Race, and Sex Data
($10,000)

A survey will be conducted to assess the extent of participation of migrant/bilingual handicapped children in special education. Their groupings as to age, sex, race or ethnic background will be investigated and a relating report will be developed. This will have implications statewide and will help assure state compliance with P.L. 94-142 mandate regarding provision of FAPE to all handicapped students.

(i) Evaluation of Effectiveness of Michigan Monitoring Model
($25,000)

A study will be conducted to determine the effectiveness of the Michigan Monitoring Model, particularly as it relates to rectification of noncompliance items identified in previous onsite monitoring visits.

(j) Music Education for the Handicapped
($10,000)

At the end of the 1980-81 fiscal year, the Instructional Specialists Program staff will have completed a revised set of performance objectives in music. In order to develop items to address the needs of special education students, test items will be developed in accordance with special needs of the handicapped.

(k) MEAP Tests for Special Education Students
($10,000)

The purpose of this research project is to study how the specific areas of MEAP tests can best be adapted to special education subgroups, as well as to determine those students for which it is appropriate to offer either the regular MEAP or adapted version and those who should be excluded. This will help local districts to determine a criterion for including students in MEAP, as well as how to best adapt tests such as MEAP to special education students.

(1) MLRC-related Testing for Special Education Students ($10,000)

During the 1979-80 school year the Michigan Educational Assessment Program, in cooperation with educators from throughout the state, prepared test items to measure the various performance objectives identified for the Michigan Life Role Competencies Project. During the 1980-81 school year these items were tested and validated for the general education students in grades 10, 11, and 12. Although many of these items are appropriate for special education students, they have not been validated for the special education students who have been mainstreamed into regular classes.

During the 1981-82 school year these test items will be tried out with special education students to ascertain their validity and reliability and to develop special testing procedures, when necessary. The purpose of these activities is to meet the need of the special education service area for data to validate the validity and reliability of the MLRC test instruments in judging special education students' competency in the various life role areas. If the MLRC tests are found valid and reliable, SEA may wish to require the use of these tests as part of special education student graduation requirements.

6.	Inservice Training	$ 128,000

Summaries of activities are included in Chapter IX, The Comprehensive System of Personnel Development.

C.	State Administration	$1,703,797

P.L. 94-142 provides up to 5% of a state's allocation, or $200,000 (whichever is greater) for the purpose of administering programs to meet requirements of P.L. 94-142. The SEA proposes to spend an approximate 5% for administration for fiscal year 1982.

It is anticipated that a maximum of 46 persosnnel, both professional and clerical, will be assigned to this major task. This staff shall provide planning consultation at the local level, monitoring of ISD activities through onsite visitations, and evaluation of the special education programs on an annual basis. In addition, the state educational agency staff will gather and report programmatic, statistical, and fiscal information as required by the Department of Education. Chapter XVI of this plan discusses this section more fully.

Available Resources for Special Education

Chart 2 shows the federal, state and local resources that have been committed during the current school year, as well as those estimated for FY 1981.

Onsite visitations conducted by the State Education Agency, Title VI-B staff consists of a review of programs and fiscal monitoring. Technical assistance is provided and written recommendations are forwarded to project personnel for the purpose of strengthening the projects within the school districts.

All educational agencies shall receive funds prorated upon the number of identified handicapped individuals who are being served within their district and upon receipt of their submitted intermediate plans and corresponding application forms.

Some school districts or agencies may be granted funds for the development of specific projects which have statewide implications through the submission of an application as requested by the State Education Agency.

In addition, intermediate school district plans are required to describe financial revenues and program costs annually, and these are subject to the approval of the State Education Agency. [12340.1832(3)]

Chapter XVI, Description of Use of Part B Funds, presents in more detail the organizational structure of the State Special Education Service Area, and the units primarily charged with the administration, planning, monitoring, and evaluation of special education programs and services in the state.

Comparable Services

The State education agency shall require that ISD plans detail assurances regarding the provision of comparable services to all handicapped children within the service area. Services provided through state and local funds shall be made accessible to all handicapped students. If Priorities I and II have been met, funds generated through P.L. 94-142 shall be used to augment state and local special education funds particularly as these meet identified special needs. Records regarding use of these funds shall be maintained for monitoring and accountability purposes.

CHART 2

SUMMARY OF FEDERAL, STATE, AND LOCAL RESOURCES

	1978-79	1979-80	1980-81
State Categorical Aid			
Section 51	102,214,300	110,011,000	121,931,098*
Section 56	12,789,209	17,677,000	20,040,000*
TOTAL	115,003,509	127,688,000	141,971,098
Federal Aid			
P.L. 94-142, Title VI-B	19,885,700	30,864,891	31,168,902*
Title I	7,230,000	8,173,167	8,173,168
TOTAL	27,115,700	39,038,058	39,342,070
Gross Membership Allowance Section 21/LEA Tax Levy	78,074,242**	87,440,945*	94,926,888**
LEA/ISD Funds from Tax Levy***	134,212,770	151,734,968	163,434,640
Total Revenue Equals Estimated Special Education Expenditure	354,416,221****	405,901,971****	439,674,696****

* As per 1981 Governor Budget Proposal.

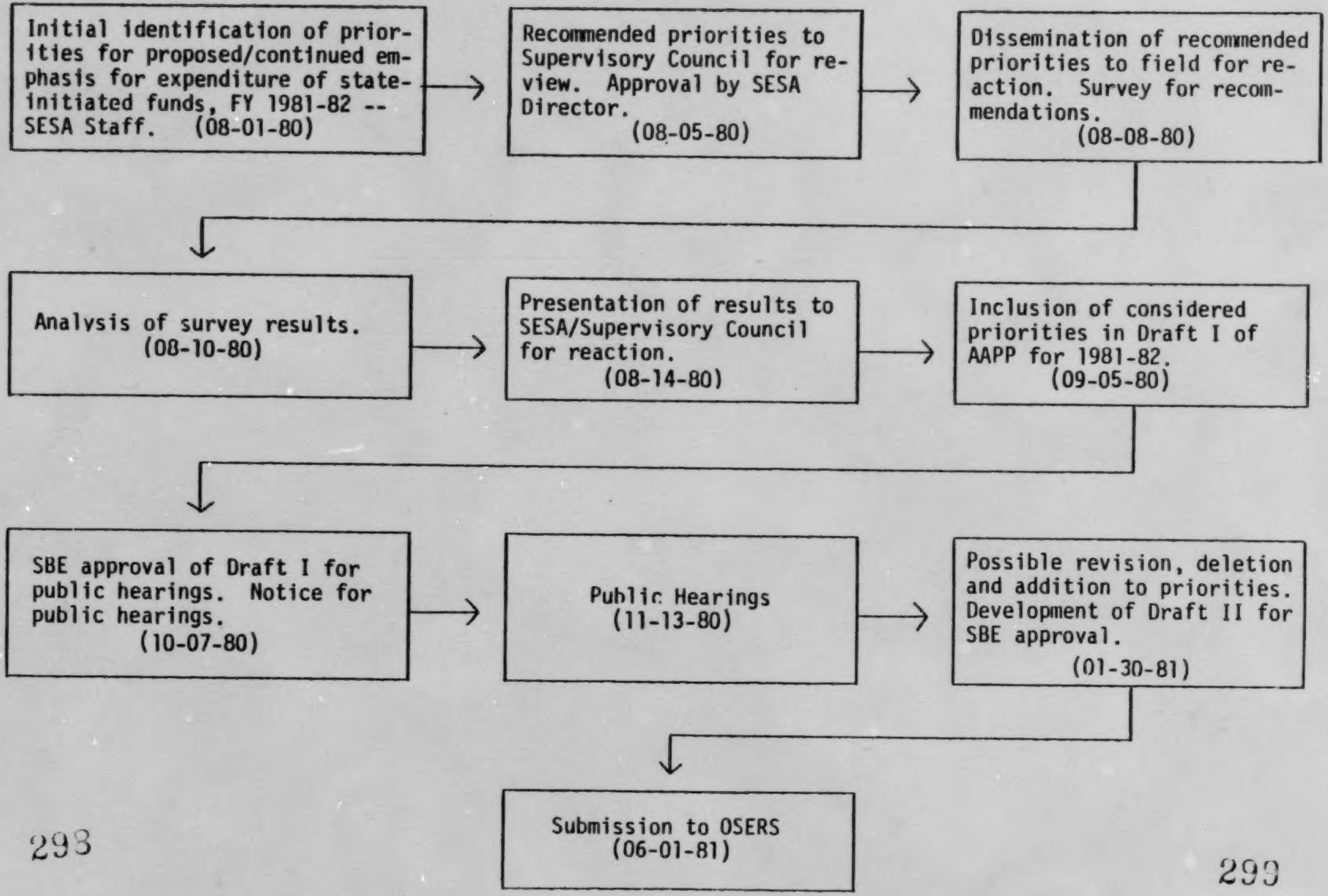
** Based on most recent Department of Education estimated update, February 1, 1980.

*** Determined by subtracting total revenue from categoricals, federal source, gross membership from Department of Education estimated update of February 1, 1980.

**** Based on SESA Projections February 1, 1980 and includes Title I funds which are not used in Department of Education projections.

CHART 3

ESTABLISHMEN[illegible]RIORITIES
AMENDED ANNUAL PROGRAM PLAN
FY 1981-82



Initial identification of priorities for proposed/continued emphasis for expenditure of state-initiated funds, FY 1981-82 -- SESA Staff. (08-01-80)

Recommended priorities to Supervisory Council for review. Approval by SESA Director. (08-05-80)

Dissemination of recommended priorities to field for reaction. Survey for recommendations. (08-08-80)

Analysis of survey results. (08-10-80)

Presentation of results to SESA/Supervisory Council for reaction. (08-14-80)

Inclusion of considered priorities in Draft I of AAPP for 1981-82. (09-05-80)

SBE approval of Draft I for public hearings. Notice for public hearings. (10-07-80)

Public Hearings (11-13-80)

Possible revision, deletion and addition to priorities. Development of Draft II for SBE approval. (01-30-81)

Submission to OSERS (06-01-81)

SESA -- Special Education Service Area
AAPP -- Amended Annual Program Plan

SBE -- State Board of Education
OSERS -- Office of Special Education and Rehabilitation Services

CHAPTER IV. CHILD IDENTIFICATION

It is the policy of the State Board of Education to assure that all children who are handicapped and in need of special education programs and services are identified. In this connection, the State Board of Education took the following steps:

1. Approved the final report of the Task Force on Preprimary and Family Education. One of the goals listed in the report was to cooperate with the Departments of Public Health, Mental Health, and Social Services in establishing a system to make health and developmental screening services available to all preprimary children. Appendix E contains a copy of the interagency policy statement signed by the directors of the four agencies.

2. Established the Office of Preprimary and Family Education within the Department of Education. The primary goals of the office are to coordinate and improve preprimary programs; stimulate interagency linkages; provide easy accessibility for parents, providers of service, and other interested citizens to Department of Education Personnel; and establish curriculum guidelines for preprimary education programs. Special Education Services will work cooperatively with the Office of Preprimary and Parent Education in implementing Project Find.

3. Established a State Advisory Council on Preprimary and Family Education to review and recommend policies relating to Department of Education Preprimary and Family Education Program.

4. Established rules requiring each intermediate school district to develop a system for identifying handicapped persons. Each intermediate plan must:

   (a) Describe the means by which persons from 0 through 25 years of age, known to be or suspected of being handicapped, will be identified and referred for diagnostic services. The handicapped shall be identified in accordance with rules governing programs and services for handicapped persons as promulgated by the State Board of Education.

   (b) Describe the process by which those identified and referred for diagnostic services will be evaluated by a multi-disciplinary team prior to the conduct of the individualized educational planning committee to determine recommendation for or denial of placement in special education programs and related services.

   (c) Describe the means by which the local school district and the intermediate school district will advise and inform handicapped persons, their parents, and other members of

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the community on the following: special education opportunities guaranteed by the law, the obligations of the local and intermediate school district, and the name, address, and telephone number of representatives of both the local and intermediate school districts from whom information can be obtained.

Effectiveness of Michigan's Child Identification System

Throughout FY 1981, the State Board of Education has continued to sponsor statewide Project Find media campaigns designed to locate and identify persons suspected of being handicapped. There continued to be radio and television announcements, dissemination of previously developed brochures and posters, as well as the development of new ones which include a Spanish edition, an Arabic edition, and another that focuses on adolescents and post-school persons. Also continued was the statewide toll free 24-hour hot line which has elicited an average of 26 legitimate calls per month.

An evaluation of the intermediate school district projects indicates that approximately one-third of the calls and communications result in actual special education placements. Data indicates that local and intermediate school districts are doing an excellent job identifying persons ages 0 through 25 who are handicapped and in need of special education intervention.

Based on the results of Project Find studies and a review of data on the growth of special education in Michigan, the Department of Education finds that Michigan has met the goal of providing special education programs and services to all identified handicapped students in need of such services.

Special Education Services, in cooperation with the Office of Preprimary and Family Education will continue to provide leadership and support to local and intermediate districts to assure continued efforts to identify all handicapped children in need of special education intervention. The Department of Education will continue to:

1. Coordinate statewide awareness campaigns;
2. Develop and disseminate awareness and media meterials;
3. Disseminate information to local and intermediate school districts on effective Project Find methods;
4. Establish minimum criteria for ISD plans, and assure that each intermediate plan identifies the procedures and persons responsible for coordinating Project Find activities;
5. Fund the state Project Find activities including the toll free telephone information system;
6. Hold bi-annual statewide Project Find conferences;
7. Assess the need for and revision of Project Find guidelines;
8. Provide intensive technical assistance to school districts whose percentage of identified handicapped students is very low; and
9. Improve awareness and understanding of medical community with regard to legal obligations, programs and services to handicapped students provided by educational agencies.

The following are considered the major accomplishments and activities on child identification:

1. Continuation of the Office of Preprimary and Parent Education within the Department by the State Board of Education.
2. Allocation of $100,000 to assure that each of the state's 58 intermediate school districts initiate public awareness activities and develop a child identification system.
3. Establishment of criteria by the Board of Education to assure that, henceforth, intermediate plans shall specify procedures and relating responsibilities regarding the maintenance and evaluation of effectiveness of a child identification system.
4. Designation of the month of November as Project Find month by the State Governor, upon SEA request.
5. Participation in the nationwide child identification project through the state's public TV stations.
6. Continuation of a statewide hot line telephone number for the Child Find Project, 1-800-572-6955.
7. Conduct of Project Find conferences statewide.
8. Development of statewide public service announcements for radio, TV, and the newspapers.
9. Inservice training for local and intermediate school superintendents, directors of special education, planners, and representatives from Parent Advisory Committees on criteria for inclusion of child identification in the intermediate plans.
10. Development of new and effective Project Find media, i.e., book marks, phone stickers, note pads, litter bags, as well as brochures and radio, TV, and newspaper ads.
11. Establishment of ways to assess effectiveness of Project Find, i.e., analysis of data, etc.

Child identification efforts for 1981-82 are anticipated to result in the following:

1. Establishment of a more comprehensive system of child find to assure that all handicapped children are identified and provided with appropriate special education and related services.
2. Establishment of a cooperative system that will utilize available resources of more agencies, thus assuring that child identification become a concern of service organizations, other than those related to education.

3. Through extensive evaluation, a thorough understanding of:

   (a) Which Project Find efforts have been most successful in identifying handicapped students;

   (b) Whether all handicapped children in Michigan have been identified.

The amount of $75,000 has been allocated for the continuation of child identification efforts in 1981-82. Aside from this, contributions in the form of services and time have been pledged by service organizations, other agencies in the state Department of Education and local radio and TV stations. Appendix E also includes a report on Michigan Child Find for 1981. It details resources, activities and accomplishments.

CHAPTER V. THE INDIVIDUALIZED EDUCATION PROGRAM PROCESS

Each public agency operating special education programs and/or services shall be responsible for (1) establishing, implementing, reviewing, and revising each IEP and (2) initiating and conducting meetings to develop, review, or revise a child's IEP. Each public agency shall likewise assure that parents have the opportunity to participate at the IEPC meeting which determines eligibility and the necessary special education programs and services to provide the handicapped child with a free and appropriate public education. If a student is determined to be handicapped, the committee shall write an IEP or may reconvene for this purpose. All participants as detailed in R 340.1721(b) and Section 300.344 must be included at this meeting.

The planning conference participants shall include the student, when appropriate, and other individuals at the discretion of the parents and the public agency. The conference shall be held at a mutually agreed upon time and place.

The following have been established to assure that the rights of each handicapped student is protected in the evaluation and placement process. All rights pursuant to these procedures shall be communicated to the parent(s).

1. Parents shall be notified of the school district intent to evaluate as detailed in Chapter VI of this document.

2. Each student suspected of being handicapped must be individually diagnosed to determine the extent and nature of the disability and its effect on the student's ability to learn. The diagnosis must be provided by qualified personnel. [R 340.1703 through R 340.1714 of the Administrative Rules, Appendix B].

3. Testing and evaluation instruments and procedures must be adapted according to the child's age, native language, and sensory, manual, and speaking skills. [R 340.1721(a) of Administrative Rules, Appendix B].

4. The time from referral or from receipt of parental consent to an initial evaluation to the completion of the individualized educational program or the determination of ineligibility shall not exceed 30 school days. This timeline may be extended if agreed to by the parent and public agency. [R 340.1721(c)(2), Appendix B].

5. Participants in an individualized educational planning committee meeting shall, at a minimum, include both of the following:

    (a) A representative of the public agency, other than the child's teacher, who is qualified to provide, or supervise the provision of, special education.

(b) The student's teacher or a teacher appropriate for the student's age and ability if the student is not previously enrolled by the public agency. If the child is enrolled in regular education, at least one of the participants shall be a regular full-time teacher to whom the child is assigned.

At the initial individualized educational planning committee meeting and at the 3-year comprehensive evaluation review meeting, a member of the multidisciplinary team is required to be a participant and present the written team report. At subsequent individualized educational planning committee meetings, members of this team may participate at the request of the parent or public agency. However, one of the meeting participants shall present the handicapped person's current level of educational performance.

6. The parent(s), and other persons at the discretion of the parent or public agency, must be invited to attend. The handicapped person, if appropriate, may also be invited to participate. [R 340.1721(b)(4), Appendix B]. This policy, which requires school districts to provide parents the opportunity to participate in the IEPC process, likewise requires compliance with the following provisions of Section 300.345 of the regulations for P.L. 94-142:

   (a) Notification is early enough to insure an opportunity to attend;

   (b) Meetings are scheduled at mutually agreed upon time and place;

   (c) Notice indicates the purpose, time, and location of the meeting and who will attend;

   (d) Notice informs parents that they may bring others to the meeting;

   (e) Alternative solutions are established if unable to attend;

   (f) If parents cannot attend, records of attempts to arrange mutually agreeable time and place are kept;

   (g) Assurances are established to insure parents understand the meeting (interpreters, native language);

   (h) Parents receive a copy of the IEP upon request.

   R 340.1723(b) and (c) of Administrative Rules, Appendix B, detail requirements for content of notice.

7. Prior to the Individualized Educational Planning Committee meeting, all educational records on persons suspected of being handicapped shall be made available to the parents on request.

8. Prior to assignment to programs and services, the IEPC must have determined the student to be handicapped and [R 340.1721(2), Administrative Rules] in need of Special Education intervention in order to benefit from the school program.

9. Prior to assignment of an eligible student to special education programs and services, the superintendent or designee must receive the recommended determination of special education programs and services and must notify the parents of the proposed action, statute or rule under which the action is proposed, a statement for the reason therefore, including specifications of any tests or reports on which the action is based. [R 340.1723(a) of the Administrative Rules]

10. Each public agency shall initiate and conduct a meeting to develop an individualized educational program (IEP) for each student prior to placement in special education programs and services, and this IEP must include the following information: [R 340.1721(e)]

    (a) A statement of the child's present levels of educational performance;

    (b) A statement of annual goals, including short term instructional objectives;

    (c) A statement of the specific special education and related services to be provided to the child, giving consideration to the accessibility of physical facilities: transporation, including the need for aides or restraints if any, and room and board;and the extent to which the child will be able to participate in regular educational programs;

    (d) The projected dates for initiation of services and the anticipated duration of these services; and

    (e) Appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether the short term instructional objectives are being achieved.

11. The following general requirements will apply to all special education placements as required in R 340.1733 of the Administrative Rules:

    (a) The special education programs and services and relating methods of instruction shall be consistent with the performance objectives written for each handicapped person.

    (b) The instructional program for a school day shall focus on the individual needs of the handicapped person, as determined through the plan (IEP) for each student.

(c) Special education programs and services shall be provided for at least the minimum number of hours and days of teacher-pupil contact in conformance with child accounting rules [R 340.1 to R 340.13 of the Administrative Rules] but the number of hours and days for a special education program or service shall be not less than those required for regular education programs.

(d) Handicapped persons qualifying for special educaiton programs and services shall be provided supplies and equipment at least equal to those provided to other students in regular education programs and, in addition, the supplies and equipment necessary to meet their defined performance objectives.

(e) Personnel responsible for supervising or providing instruction shall be approved by the state as having appropriate qualifications for serving handicapped children. [R 340.1771 - R 340.1798 of the Administrative Rules]

12. The following requirements established in R 340.1733 of the Administrative Rules apply to students placed in the special education curriculum:

(a) The instructional content for the special education curriculum will be approved by the intermediate school district using the standards written in Section 2.3 of the intermediate school district plan. As a minimum, the curriculum will provide for personal adjustment, prevocational, vocational, and physical education as appropriate to the child's ability and needs.

(b) The age range for persons under 16 years of age in a special education class shall not exceed four years at any one time except for severely mentally impaired, trainable mentally impaired, or severely multiply impaired. [R 340.1733(d) of the Administrative Rules]

13. The initiation of special education programs and services, as determined by the Individualized Educational Planning Committee or as based on the decision of the hearing officer, must be not more than 15 school days after the parents have been notified. [R 340.1722(a)(2) of the Administrative Rules]

14. Public agencies shall review all components of each IEP at least annually and revise items when necessary to meet the unique needs of each handicapped child. The parents must be invited to participate at these reviews. Parents shall also have the right to receive a copy of the IEP when it is reviewed and/or revised as part of the annual review of special education programs and services [R 340.1722(5) of the Administrative Rules].

Educational Planning for Children Enrolled in Private Schools

Children enrolled in private schools may be determined eligible for special education and may receive ancillary services from public school personnel in the private school setting under the provisions of Section 1296 of the School Code of 1976. The public school district serving the private school handicapped students is required to supervise the conduct of the IEP process as detailed in this chapter. The private school will be asked, as a minimum, to have the child's teacher in attendance at the IEP. (Section 300.344(a)(2) of the Federal Regulations)

Maintaining Records on IEPs

Each educational agency providing special education programs and services shall have an individualized educational program on file on each handicapped student receiving special education programs or services.

Districts are not required to have IEPs for non-handicapped persons receiving school social work or psychological services or for non-handicapped students receiving homebound and hospitalized services.

IEPs must be kept on file during the period they are in effect and for a minimum of three years from effective date. They may be kept on file after the specified period at the discretion of the public agency. Record keeping procedures shall be consistent with procedures specified in Chapter XVII of this document. The parents shall have the right to review and receive a copy of the IEP and related records as specified in the same chapter. Representatives of an intermediate district, state educational agency, or the Secretary of the Department of Education, may have access to such records without parental consent as specified in Section 99.31 of P.L. 93-380. Chapter XVII, Confidentiality of Educational Records, discusses this section in more detail.

CHAPTER VI. PROCEDURAL SAFEGUARDS

The Michigan Department of Education shall undertake the necessary activities to assure that procedural safeguards are appropriately developed and maintained by the school districts throughout the state in accordance with Section 615 of P.L. 94-142.

Policies and procedures on procedural safeguards shall be the responsibility of the SEA. As specified in state law and federal regulations, the major responsibility shall be delegated to the superintendents of the respective school districts within this state.

Article 3 of the School Code of 1976 states that the State Board of Education shall develop and continually evaluate and modify, in cooperation with intermediate school districts, an annual state plan for special education. The School Code requires intermediate school districts to develop and continually evaluate and modify, in cooperation with its constituent school districts, a plan for special education.

A description of the policies and procedures to be implemented and enforced regarding the procedural safeguards for handicapped students must be included as an integral part of each ISD plan. The SEA reviews intermediate school district plans to assure that each contains procedural safeguards.

On or before July 1 of each year, intermediate school districts submit to the Department, a new or modified plan to become effective on July 1 of the succeeding year. Any intervening modification to an intermediate school district plan is submitted to the Department, with a copy directed to each constituent local school district and the designated representative or chairperson of the parent advisory committee.

All public agencies receiving federal funds are required to identify procedures within their special education plans to assure procedural safeguards for handicapped students and to assure that parents, legal guardians, or surrogates are provided with information relating to all these procedural safeguards. ISD plans and project applications for P.L. 94-142 funds specify provisions for the conduct of the following:

1. Send written notice to parents, legal guardians, or surrogates of handicapped children, as defined in P.L. 94-142, whenever the SEA, ISD or LEA proposes to initiate, change, or refuse to initiate or change the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to the child.

   The notice shall include a full explanation of all procedural safeguards that relate to evaluation procedures, tests, records, or reports that the school district uses as bases for proposal or refusal; and impartial due process hearing processes.

The notice shall comply with both of the following requirements:

(a) It shall be written in language understandable to the general public.

(b) It shall be provided in the native language of the parent, unless it is clearly not feasible to do so.

If the native language of the parent is not a written language, the agency shall take steps to insure all of the following:

(a) That the notice is translated orally or by other means to the parents in their native language.

(b) That the parent understands the content of the notice.

(c) That there is written evidence that the requirements in subdivisions (a) and (b) of this subrule have been met.

The notice shall include all of the following:

(a) A full explanation of all of the procedural safeguards available to the parents under part 2 of these rules.

(b) A description and explanation of the action proposed or refused by rule number and officially designated title, an explanation of why the agency proposed or refused to take the action, and a description of any options the agency considered, including the reasons why those options were considered or rejected.

(c) A description of each evaluation procedure, test, record, or report the agency uses as a basis for the proposal or refusal.

(d) A description of any other factors that are relevant to the agency's proposal or refusal.
R 340.1723(b)

2. Describe procedural safeguards necessary to accomplish the following:

(a) Insure confidentiality of personally identifiable information in the identification, evaluation, and educational placement and in the provision of free appropriate education to the student.

(b) Advise and inform handicapped persons, their parents, and other members of the community of the special education opportunities required under the law; the obligations of the local and intermediate school district; and the title, address, and telephone number of representatives of both the local and intermediate school district who can provide information about the special education opportunities.

(c) Inform parents of their right to obtain an independent educational evaluation and due process hearing.

(d) Advise parents of the complaint process.
R 340.1832

3. Provide for parental consent before:

(a) Initiation of formal evaluation procedures;

(b) Initiation of special education programs and services;

(c) Disclosure of confidential information to anyone other than school officials or authorized officials of participating agencies; and

(d) Use of information for purposes other than those previously specified to the parents.

If the parents refuse to grant consent for the initial evaluation, the due process hearing procedures detailed in number 6 of this chapter shall apply. [R 340.1723(a)(3)]

For activities related to the child's educational needs other than those specified under number 2, parental consent is not necessary.

4. Describe the methods of informing parents of their rights to obtain an independent evaluation, including how and where to have such an evaluation. This shall also specify parents' rights to have an independent evaluation at public expense if they disagree with the evaluation obtained by a public agency; or if a hearing officer requests evaluations; the public agency's rights to initiate a hearing to show appropriateness of an evaluation conducted; and although ruled appropriate but parents disagree to the results, the parents' rights to obtain another evaluation at their own expense, but in accordance with criteria of the public agency; and their rights to the use of the results in relation to the provision of FAPE to the child or as evidence for a hearing. [R 340.1723(c)]

5. Describe other methods to insure parent participation if neither parent can attend, including individual or conference telephone calls. The school district or agency will take whatever action necessary to insure that the parents understand the proceedings at the meeting, and to include arrangements for interpreters for parents who are deaf, or others who require an interpreter because their native language is not English. [R 340.1721(c) of the Administrative Rules, Appendix B]

The following conditions apply when a meeting is conducted without a parent in attendance and after agency attempts to convince the parents to attend.

The public agency must have a record of its attempts to arrange a meeting at a mutually-agreed upon time and place. This should include:

(a) Detailed records of telephone calls made or attempted and the results of those calls;

(b) Copies of correspondence sent to the parents and any responses received; and

(c) Detailed records of visits made to the parents' home or place of employment and the results of those visits.

6. R 340.1724 and R 340.1725 of the Administrative Rules afford parents the opportunity for an impartial due process hearing. These rules:

(a) Prohibit an employee or officer of the involved agency or any person having personal or professional interest in the hearing from conducting such a hearing;

(b) Guarantee the appointment of a mutually acceptable hearing officer or barring mutual acceptability, a hearing officer appointed by the state;

(c) Designate the operating school district as the agency responsible for conducting the hearing;

(d) Provide for the rights of parents in the hearing, including the right to be accompanied and advised by a counselor or other persons with special knowledge or training with respect to the problems of handicapped children; the right to present evidence and confront, cross-examine, and compel witnesses to attend the hearing; the right to a verbatim record of the hearing; the right to written findings of fact;

(e) Afford parents the opportunity to appeal the local decision to the SEA. Michigan law allows parents to seek court intervention if they do not agree with the SEA findings;

(f) Insure that local and state education agencies carry out the respective hearing and hearing review actions expeditiously with fair consideration of the issues involved; and in conformity with Section 300.512, render hearing decision no later than 45 calendar days after receipt of request for the hearing, or no later than 30 calendar days after receipt of appropriate request for state review and mail a copy of the decision to each of the parties.

(g) State that, unless otherwise agreed upon by the state or local education agency and the parents, the child involved will remain in his/her present placement until completion of proceedings or if the hearing involves initial admission to public school, the child will be placed there until completion of proceedings, with the consent of the parent;

(h) Provide parties an opportunity to waive local hearing process and choose arbitration by a mutually acceptable third party, with the decision rendered by third party binding on both parent and school;

(i) Insure impartiality in the hearing process;

Procedures assuring the rights of parents and the public educational agency to due process hearings should be detailed, particularly as these relate to such issues as evaluation, placement, IEP, and other areas relevant to special education programs and services. Parents should likewise be assured of their right to have the child, who is the subject of the hearing present and to have the hearing open to the public, if they so desire.

SEA has just promulgated a new set of State rules to comply with Federal regulations that prohibit the presentation of any new information not made available to both parties at least 5 calendar days prior to the hearing. [R 340.1724(b)(c)]

(j) Assure that official conducting impartial review shall examine the entire hearing record, insure that procedures conform to due process, afford parties opportunity for oral or written argument or both, and seek additional evidence if necessary. Reviewing official should likewise make an independent decision and provide copies of this and relating findings to involved parties.

7. Inform parents of any free or low-cost legal services and provide a list of hearing officers and their qualifications. [R 340.1724]

The SEA has completed a list of persons known to be serving as hearing officers. This document includes corresponding qualifications, relating duties, and required procedures.

8. Assure that each hearing or review involving oral arguments must be conducted at a time and place reasonably convenient to the parent and/or the child involved.

Although the state educational agency remains responsible for the final decision or review, the decision of the official conducting the review is considered final, unless a party challenges it and initiates a civil action. [R 340.1724(b)(4)]

Each public agency assures that the rights of the child are protected when no parents can be identified or their whereabouts are unknown. Michigan law requires the probate court to assign legal guardians or surrogate parents in the absence of the natural parents or when parents are unable to protect the child's legal rights. Public Act 258 of 1974 makes provisions for guardianship of recipients of mental health services for residents of state institutions. Part VI of the Mental Health Code, which provides regulations for guardianship for residents of state institutions, is included as Appendix G.

The Department of Social Services is responsible for children placed outside of their homes by a court or state agency. As such, the DSS caseworker or case manager participates at IEPC process for handicapped students assigned to caseload. DSS Services Manual Bulletin B341 specifies this responsibility. The Michigan Social Welfare Laws of 1977 (Section 400.115a) defines the role of the case worker (Appendix G). Michigan defines eligibility of students in state institutions (Appendix H). The Department of Social Services' intent to deliver special education to eligible students in those institutions is contained in Appendix I.

These rules and procedures assure compliance with relating provisions of P.L. 94-142:

1. The surrogate has no other vested interest that would conflict with his/her primary allegiance to the child he/she represents;
2. The surrogate is competent to represent the child;
3. The surrogate is not an employee of the state or local education agency; and
4. The surrogate may represent the child in all matters relating to identification, evaluation, educational placement, and provision of a free appropriate public education.

Incarcerated youth in Michigan fall under two separate and distinct wardship categories. The wardship category is determined by the county juvenile court judge. The categories are (a) court wardship, or (b) state wardship.

In the event the judge declares a youth as a "court ward", the court assumes responsibility (along with the parent) for all programs and services provided to the child.

If the judge declares a youth a "state ward", the state assumes responsibility (along with the parent and court) for all programs and services to the youth. As soon as a youth is declared a state ward, the Department of Social Services assigns a county community services worker from the county of residence "who has the primary case responsibility..." (Appendix G).

The community services worker, as a case manager, then determines the placement (if necessary) of the state ward. In the event that the youth is committed to a state-operated facility, the community services worker of the county of residence is responsible for assuring that the rights of the child are protected, and that programs and services are provided to meet his special education needs.

If the child is suspected of being handicapped, a referral form is completed, and the parents, along with the county community service worker is notified of the referral, due process procedures, etc., and that a meeting date is established to discuss the suspected handicap. (Section 380.1711 and R 340.1721 to 1725 of the Administrative Rules, Appendix B). The county community service worker may attend (along with the parent) to assure that the youth receives appropriate programs and services. In the event that the parent is unavailable to attend or parent(s) is not identified for various reasons, the community services worker from the youth's county will represent the parent as a surrogate parent, as well as a state/county case manager on behalf of the child to assure that the rights of the child are respected.

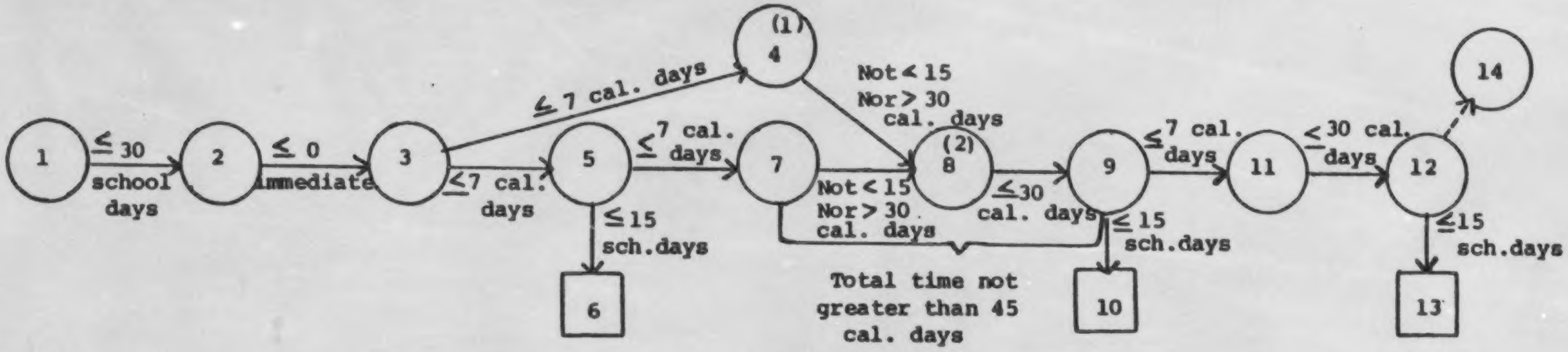
It should be noted that the county community services worker is neither an employee of the public agency nor institutional program charged with providing care or education to the child, but is an agent of the state/court, acting as the surrogate parent, to assure that services and programs are provided in accordance with the students special education needs.

The State Board of Education has approved policies to insure the enforcement of this state's Mandatory Special Education Statutes. In April 1978, it granted authority to the SESA to enforce P.L. 94-142. Appendix J constitutes the Michigan Monitoring Standards. The Board likewise required that each ISD plan include assurances of compliance with P.L. 94-142. The SESA will use the same procedures for dealing with complaints regarding both P.L. 94-142 and the Michigan Mandatory Special Education Law. Procedures can be found in R 340.1851 thru 1854 of the Administrative Rules, Appendix B.

Included in the assurances for compliance are requirements for each school district to monitor and enforce the policies and procedures set forth in this State Plan.

Chart 4 illustrates the due process hearing procedure and Chart 5 projects the complaint and investigation process.

SPECIAL EDUCATION DUE PROCESS HEARING PROCEDURE (P.A. 451)


1
≤ 30 school days
2
≤ 0 immediate
3
≤ 7 cal. days
(1) 4
≤7 cal. days
5
≤ 15 sch.days
6
≤ 7 cal. days
7
Not < 15 Nor > 30 cal. days
Not < 15 Nor > 30 cal. days
(2) 8
≤ 30 cal. days
9
≤ 15 sch.days
10
Total time not greater than 45 cal. days
≤ 7 cal. days
11
≤ 30 cal. days
12
14
≤ 15 sch.days
13

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1. Referral for possible special education services (or consent) received by school district.
2. IEPC completed.
3. Superintendent of operating district receives IEPC decision.
4. Superintendent appeals IEPC decision and requests a hearing.
5. Parent notified of decision.
6. No appeal by either parent, district of operation, or district of residence is received. Therefore, placement is made.
7. Parent appeals IEPC decision and requests a hearing.
8. Local hearing is convened and completed.
9. Local hearing decision is rendered.
10. No appeal by parties; therefore decision is implemented.
11. One or more of the parties appeal and request a state hearing/review.
12. State hearing/review decision rendered.
13. Decision implemented.
14. Administrative review process exhausted. Parties only recourse to disagree is through courts.

LOG

< means "less than"
> means "more than"
≤ means "less than equal to"
"cal. days" means calendar days
"sch. days" means school days

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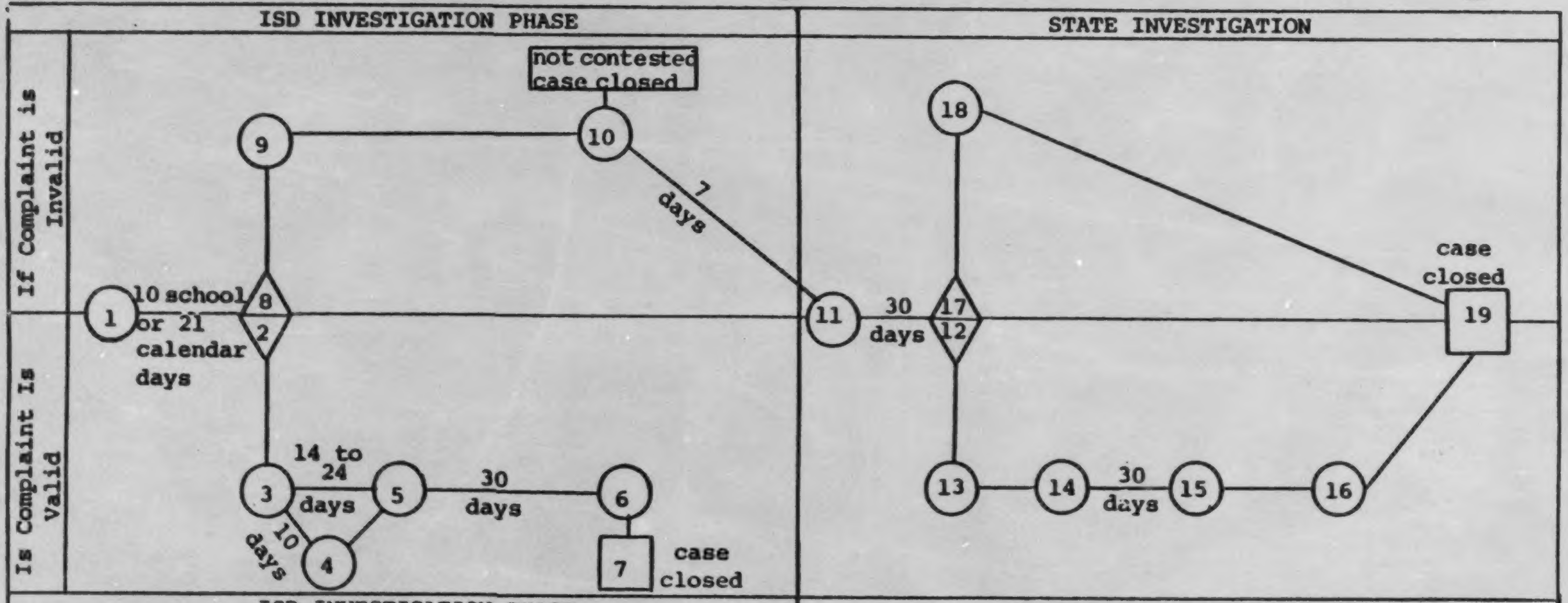
1. If the district of residence is different from the district of operation, the superintendent of the district of residence may also request a hearing in the same manner as can the District of Operation. (R 340.1722(b))
2. The parties by mutual agreement may enter into arbitration in lieu of hearing process. (R 340.1724(4))

Rev. 12-2-80

CHART 5

COMPLAINT/INVESTIGATION PROCESS


ISD INVESTIGATION PHASE
STATE INVESTIGATION
If Complaint is Invalid
Is Complaint Is Valid
not contested case closed
1
10 school or 21 calendar days
8
2
9
10
7 days
3
14 to 24 days
5
30 days
6
10 days
4
7
case closed
11
30 days
17
12
18
13
14
30 days
15
16
case closed
19

ISD INVESTIGATION PHASE

1. Complaint rec'd by ISD, 10 school to 21 calendar days to investigate.
2. ISD investigation report completed-violation found.
3. School district, complainant & MDE, rec'd copies of report.
4. School district's statement of intended corrective action rec'd by MDE.
5. MDE sends directive within 14 days of receipt of report and the district's "intention" response statement. Directive requires coming into compliance.
6. School district proof of compliance, or statement that they cannot comply is rec'd by MDE, or sch.dist. fails to respond.
7. MDE closed case after accepting proof of compliance or takes other appropriate action.
8. ISD investigation completed - no violation.
9. Sch. district, complainant & MDE receive report.
10. Complainant receives MDE notice of right to contest and request state invest. on findings of no violation. Complainant given 7 days to contest.

STATE INVESTIGATION PHASE

11. MDE receives complainant's request for St. investigation. SESA has 30 calendar days to investigate.
12. State investigation finds violation.
13. SESA sends directive to come into compliance and notifies of right to appeal state decision to U.S. Dept. of Ed.; copies all parties.
14. Sch. district receives directive (unless appealed or unless otherwise specified) has 30 days to come into compliance or state why it cannot comply.
15. Proof of compliance or statement that they cannot comply is rec'd by MDE, or sch. dist. fails to respond.
16. SESA accepts proof or takes other appropriate action.
17. St. invest. finds -- no violation.
18. SESA forwards report of no violation to all parties. Notifies of right to appeal state's decision to U.S. Dept. of Ed.
19. Unless appealed to U.S. Dept. of Ed., SESA closes MDE state invest. case. Copies all parties.

CHAPTER VII. LEAST RESTRICTIVE ENVIRONMENT

The assignment of handicapped students to least restrictive environments is made by the Superintendent on an individual student basis after the review of IEPC reports. Assignment is based on each child's IEP which is developed by the committee after determination of eligibility. The procedures for holding IEPC meetings are detailed in Chapter V. This chapter likewise details procedural requirements as contained in Public Law 94-142 and the Michigan Administrative Rules.

Assignment to special classes, or if necessary, separate facilities, may be recommended to the Superintendent by the IEPC if the nature or severity of the handicap is such that the student's educational, social and physical needs cannot be achieved satisfactorily in the regular education environment. R 340.1722, Rule 22 of the Administrative Rules (Appendix B) establishes procedures that assure the provision of least restrictive educational environments to handicapped students on an individual basis. Relating rules also provide parents the right to request a hearing if they disagree with the assignment. Chapter VI of this plan describes the procedures for requesting and conducting hearings.

The superintendent of the operating district is required to direct a review of the student's programs and services at least annually. For non-resident students, the superintendent is likewise required to advise the superintendent of the district of residence and the parents of the handicapped person of the findings of that review. [R 340.1722 of the Administrative Rules, Appendix B]. The review will be a part of the IEP process which assures the participation of parents and is consistent with federal rules which specify that individualized education programs be reviewed at least once a year.

Continuum of Special Education Programs and Services

The requirement to place each handicapped child in the least restrictive environment cannot be achieved unless every educational agency in the state has access to a total continuum of special education programs and services. The SEA reviews each ISD plan yearly to assure that this continuum is available as a condition of the recommendation of the plan for approval by the State Board of Education.

Section 380.1711 of the School Code of 1976 requires each intermediate school district to:

> Develop, establish, and continually evaluate and modify, in cooperation with its constituent districts, a plan for special education which shall provide for the delivery of special education programs and services designed to develop the maximum potential of each handicapped person for whom the intermediate school board is required to maintain a record under subdivision (f). The plan shall coordinate the special education programs and services operated or contracted for by the constituent districts and shall be submitted to the State Board for its approval.

The State Board has promulgated rules identifying the continuum of programs and services to be operated or contracted for by the intermediate school district and included in the ISD plan. R 340.1832 of the Administrative Code specifically requires each plan to:

> Describe the special education basic programs and supportive services, including vocational training programs designed to meet the educational needs of handicapped persons.

As a minimum, each public agency must provide or contract for the provision of the following continuum of programs and services:

1. Required Programs	Administrative Code Reference
Severely Mentally Impaired	R 340.1738
Trainable Mentally Impaired	R 340.1739
Educable Mentally Impaired	R 340.1740
Emotionally Impaired	R 340.1741
Hearing Impaired	R 340.1742
Visually Impaired	R 340.1743
Physically & Otherwise Health Impaired	R 340.1744
Learning Disabled	R 340.1747
Severely Multiply Impaired	R 340.1748
2. Required Ancilliary Services	
Audiology	R 340.1707
Occupational Therapy	R 340.1733(L)
Physical Therapy	R 340.1733(K)
School Psychology	R 340.1703 — R 340.1705
Speech and Language	R 340.1710
Social Work	R 340.1706
Orientation and Mobility	R 340.1721(a)
3. Required Instructional Services	
Preprimary Teacher	R 340.1754
Teacher Consultant	R 340.1749
Speech and Language	R 340.1745

The Department of Education has approved the following classes of teacher consultants:

(a) Teacher consultants for the mentally impaired;
(b) Teacher consultants for the emotionally impaired;
(c) Teacher consultants for the learning disabled;
(d) Teacher consultants for the hearing impaired;
(e) Teacher consultants for the visually impaired; and
(f) Teacher consultants for the physically and otherwise health impaired.

Each public agency must hire or contract for the services of the various types of teacher consultants for supplementary services to meet the individual needs of each student as required through the IEPC process.

3. Required Diagnostic Services

Each public agency must also obtain medical evaluation as required by (a) R 340.1707 for evaluation of the hearing impaired, (b) R 340.1708 for visually impaired, (c) R 340.1709 for physically and otherwise health impaired, R 340.1711 for preprimary impaired, (d) R 340.1714 for evaluation of severely multiply impaired, and (e) if needed, for evaluation of learning disabled under R 340.1713. School districts must also obtain the services of an audiologist for the evaluation of students suspected of being hearing impaired.

Public agencies must obtain the services of a school social worker and a psychologist as defined in R 340.1701(o) and as required by R 340.1706 for the evaluation of emotional impairments.

4. Optional Programs and Services

Public agencies may, but are not required to, hire other types of personnel such as workstudy coordinators, recreation specialists curriculum resource consultants, music therapists, school nurses, transportation aides, bilingual interpreters, etc. As authorized in R 340.1701, school districts may also provide or contract for the provision of prevocational evaluation and other related services as included and approved in corresponding ISD plans.

The public agency assures that educational programs prescribed through the IEPC process are provided for each handicapped student.

Duration of Programs and Services

R 340.1733 of the Administrative Code establishes the following criteria regarding the availability of programs and services:

1. Special education programs and services shall be provided for at least 180 days and 900 clock hours per pupil contact in conformance with the child accounting rules, R 340.1 to R 340.13 of the Administrative Rules, but the number of hours and days for a special education program or service shall be not less than that required for regular education programs.

2. Programs for the severely mentally impaired and the severely multiply impaired include a minimum of 230 days and 1,150 clock hours.

Placement in the Least Restrictive Environment

The State Board of Education subscribes to the concept that handicapped children, including children in institutions or other care facilities,

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should be educated with children who are not handicapped whenever appropriate. R 340.1722 of the Administrative Rules (Appendix B) holds the superintendent of each operating district responsible for assigning a handicapped person to the facility where the programs and services, as described by the IEP or as directed by a hearing officer, are to be provided, and in accordance with timelines specified in R 340.1722(a). In effecting appropriate placements, the superintendent shall assure the following:

(a) That to the maximum extent appropriate, handicapped persons are assigned with non-handicapped. They are expected to attend school in the district of residence and in the same building as other children of the same age, grade and/or ability, except where the child's IEP calls for some other arrangement.

(b) That assignment to special classes, separate schools, or the removal of the handicapped person from the regular education environment occurs only when the nature and severity of the handicap is such that education in a regualr class with use of supplementary aids and services cannot be achieved satisfactorily.

(c) That handicapped persons whose disability is such that they require assignment in special classes or facilities shall be assigned to programs or services as close as possible to their home.

(d) That in making the assignment, consideration shall be given to the accessibility of physical facilities, socially accepting environments, and to any potential harmful effects to the student or the quality of services which the student needs. To assure the availability of appropriate and socially accepting environments, teachers and other personnel are provided with adequate inservice, preservice training, and technical assistance. Activities detailed in the chapter for Comprehensive System of Personnel Development focus on providing information and training to personnel to develop attitudes and competencies that will assure the provision of better services to the handicapped in least restrictive environments. (Chapter IX)

(e) That each handicapped person shall be given the opportunity to participate with nonhandicapped persons in nonacademic and extracurricular activities and services. Nonacademic and extracurricular activities and services may include, but are not limited to, meals, recess periods, counseling services, athletics, transportation, health services, recreational activities, and special interest groups or clubs sponsored by the public agency; referrals to agencies that provide assistance to handicapped persons such as employment and other agencies for services based on need.

If a handicapped person is assigned to a facility that houses nonhandicapped persons, the involvement of the handicapped person in the above activities and services shall be to the maximum extent appropriate to the handicapped person's needs.

(f) That a staff person shall be appointed responsible for the implementation of the individualized education program. This person shall be either the principal of the building offering the handicapped person's primary educational program or other staff person who is generally accessible to the staff and who will be working with the handicapped person.

It is the responsibility of the public agency to assure that handicapped students are placed in the regular education program where the diagnostic data indicates the placement as consistent with the educational, social, and physical needs of the individual student. If there is evidence that a handicapped student does not have the knowledge, skills or behaviors needed to succeed in the regular education environment, the school district will determine if the student can succeed with the help of:

1. Supportive personnel such as teacher consultants;
2. Adapted methods, materials and/or techniques such as braille books, etc.;
3. Modification of the environment such as elimination of architectural barriers, or
4. Other compensatory adjustment to assure the child can succeed educationally, socially and physically.

Public agencies are expected to educate handicapped children in the building where they would normally attend unless the following programs and services are required:

1. Special facilities such as therapy pools or physical therapy rooms;
2. Materials and equipment which are not normally available and are nonportable in nature such as radio transmitting devices placed in a building to accommodate the hearing impaired;
3. Special techniques, including the availability of regular education staff who can communicate by sign, a school nurse, or other personnel trained to handle medical emergencies associated with specific handicaps or physical conditions;
4. Home and hospital programs for medical treatment, or psychiatric therapy for students who cannot be physically transported to the school settings. The inability to be transported means not being able to ride on an approved school vehicle in a regular seat, wheelchair, or an approved baby seat. This specifically excludes students who need ambulance service, a medical attendant, or other care outside the responsibility of the schools.

5. Special Education classroom programs designed for children who cannot function in a regular classroom for all or part of the day. R 380.1711 of the Special Education Code authorizes school districts to assure the availability of a continuum of programs and services. This may be done by having programs operated within the ISD or by contracting with another ISD.

6. Special education classroom programs designed for students who are not capable of completing the normal course of study or graduating from high school may be provided in separate school facilities. These programs include those for the severely mentally impaired, trainable mentally impaired, and multiply handicapped. These programs provide special curriculums which may not be available in a regular education setting.

Programs and services for handicapped students whose behavior is such that court or state agency has determined them not eligible for educational participation in public schools may not be available in the public schools. This includes handicapped students in the following settings: juvenile detention facilities; Department of Mental Health-operated programs for the emotionally impaired; Department of Social Services-operated custodial facilities, and boys and girls training schools; and prisons or jails. The courts or the state agencies are responsible for the provision of services to students of this category.

To assure that the least restrictive environment will not produce a harmful effect on a child or reduce the quality of services required, the appropriate administrator, teacher, diagnostic person or parent may request the superintendent of the operating district to have the child reevaluated to assure placement in a least restrictive environment. (300.534)

If there is evidence that placements are inconsistent with the afore-stated procedures, the review and implementation of corresponding corrective action shall be based on the State investigation procedures. (R 340.1851)

Least Restrictive Environment for Residents of State Institutions for the Developmentally Disabled

State Board of Education policy requires that special education programs and services provided to all handicapped students, including residents of the Department of Mental Health facilities, should be delivered in the least restrictive environment possible. As a result of this policy, residents of state institutions and nursing homes who are physically capable are moved to a public school setting to receive service.

Regardless of other reasons for institutional placement, no child in an institution for the developmentally disabled who is capable of learning in a regular public school setting may be denied access to an education in that setting. Chapter XV of this Plan discusses this more fully.

Least Restrictive Environment for Vocational Education

Many of Michigan's school districts provide vocational education in centralized schools or area skill centers. Handicapped students have equal access to these programs. Federal vocational education funds have been used to adapt the regular vocational education setting to meet the needs of handicapped students who would otherwise not qualify for entry into the regular vocational education program. Chapter VII of Appendix C, Guidelines for Special Education Programs and Services in Michigan, provides a full description of the vocational alternatives available for the handicapped.

Availability of Vocational Rehabilitation Services

Handicapped students who are in their last year of school or who would otherwise qualify may be referred for vocational rehabilitation services at the Michigan Rehabilitation Services. Chapter IX of the Guidelines for Special Education Programs and Services (Appendix C) contains SEA policy on identification and referral for vocational rehabilitation services.

Appendix L presents an interagency delivery system model for vocational education and vocational rehabilitation services to the handicapped.

Description of Major Problem Areas Encountered in Making Alternative Placement Available to Meet Needs of Handicapped Children

The following are problems identified by public agencies in relation to provisions of additional services:

1. There are some school districts that have been unable to hire or contract for physical therapists. There are other districts that are having difficulty obtaining this service in a timely manner due to the shortage of physical therapists in Michigan.

2. A number of school districts have reported difficulty in hiring teachers and teacher consultants for the learning disabled and emotionally impaired.

3. Some sparsely populated intermediate school districts have difficulty providing the total range of special education programs and services. These districts often rely on their neighbors for the delivery of special education programs and services, particularly those involving low incidence areas. In some instances, these districts have difficulty locating available and appropriate programs with which they can contract service and, in many cases, there are problems in coordinating transportation between intermediate districts. These problems often result in a delay of assignment to appropriate programs.

4. The decentralization of Department of Mental Health-operated programs for the developmentally disabled and their subsequent residence in homes within ISD service boundaries has added a service dimension to school districts which may have to provide specially designed programs for the severely multiply impaired. This situation is compounded when such programs may have to be specially designed for only one or two handicapped students and when needed professional staff is not readily available, thus delaying placement in the most appropriate educational environment.

5. There is a shortage of school psychologists.

6. The State Commission for the Blind has indicated that orientation and mobility specialists are not available in every area of the state.

7. The Michigan Rehabilitation Services and Vocational Education Services of the Department of Education have identified the need for a model vocational education delivery system for handicapped students who cannot have their educational needs met in regular or adapted vocational education programs.

8. There is a shortage of trained personnel to meet the motor skill/physical education needs of handicapped children in the state.

CHAPTER VIII. PROTECTION IN EVALUATION PROCEDURES

The State Board of Education has established requirements (Appendix D, pages 9 and 10) to assure that testing and assessment materials and procedures utilized for the purposes of evaluation and placement of handicapped children are selected and administered so as not to be racially or culturally discriminatory. Before providing or denying special education placement to a child, a full and individual evaluation of educational needs shall be conducted. Procedures relating to this evaluation shall be established in ISD plans. Such materials or procedures shall be provided and administered in the child's native language or mode of communication, unless it is clearly not feasible to do so, and no single procedure shall be the sole criterion for determining an appropriate educational program for a child. R 340.1721(a) of the Administrative Rules (Appendix B) details the requirements school districts have to meet to assure the protection of the handicapped in evaluation procedures.

Each public agency provides written assurances regarding the protection of the student in evaluation procedures as a condition of receipt of funds. The assurances shall guarantee the following:

1. Each student suspected of being handicapped shall be evaluated by a multi-disciplinary evaluation team as defined in R 340.1701a. Members of the team may include other qualified personnel in areas related to the suspected disability, including, where appropriate, the following: health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor ability.

2. The multi-disciplinary team shall complete a diagnostic evaluation, including a recommendation of eligibility, and shall prepare a written report to be presented to the individualized educational planning committee by the appointed multi-disciplinary team member. The report shall include, but not be limited to, information needed to determine eligibility and educational data which identifies the person's current level of educational performance. Information presented to the individualized educational planning committee shall be drawn from a variety of sources, including parent input, aptitude and achievement test, teacher recommendations, physical condition, social or cultural background, adaptive behavior, and other pertinent information. No single procedure shall be used as the sole criterion for determining an appropriate educational program for a person.

3. When evaluating a person suspected of being handicapped, the public agency shall assure that tests and other evaluation materials used by members of the multi-disciplinary team are administered by trained personnel in conformance with the instructions provided by their producer; are validated for the specific purpose for which they are used; are designed not merely to provide a general intelligence quotient, but also to assess specific areas of educational need.

are reflective of the person's aptitude or achievement or whatever other factors the test purports to measure rather than the person's impaired sensory, manual, or speaking skills, unless this is what the test is intended to measure; and are selected and administered so as not to be socially or culturally discriminatory.

4. When evaluating a person suspected of having a specific learning disability, at least one team member other than the child's regular teacher shall observe the child's academic performance in the regular classroom setting. In the case of a child of less than school age or out of school, a team member shall observe the child in an environment appropriate for a child of that age. The multi-disciplinary evaluation team shall complete a written report in accordance with R 340.1721(a)(5).

5. When evaluating a person suspected of being emotionally impaired, the multi-disciplinary team report shall include documentation in accordance with requirements of R 340.1721(a)(6).

6. When evaluating visually impaired students who have a visual acuity of 20/200 or less after routine refractive correction, or who have a peripheral field of vision restricted to not more than 20 degrees, an evaluation by an orientation and mobility specialist shall be conducted. The report must include a set of recommended procedures to be used by a mobility specialist or a teacher of the visually impaired in conducting orientation and mobility training activities. [R 340.1721a(7)]

Each public agency also specifies that procedures for evaluation conform to mandated criteria and that such evaluation shall be conducted at least every three years and/or whenever conditions warrant and the child's parent or teacher requests reevaluation. If a student has recently been evaluated, the school district shall determine the need for additional evaluation. A reevaluation of at least once in every three years shall redetermine eligibility and be conducted according to procedures established for the initial evaluation defined in P.L. 94-142 regulations and the IEPC process detailed on pages 32 through 36.

The Department of Education has devleoped the following materials and has made them available to public and private agencies to help them in nondiscriminatory assessment:

1. Assessment and Specific Concerns of the Severely Visually Impaired Student (Low Incidence Population). The document is the result of an institute conducted for school psychologists and other diagnostic personnel to help them assess severely visually impaired students and other low incidence impaired persons. Participants included 53 general and special educators.

2. Information Necessary for the Placement of Special Education Students This document is the result of an institute and contains data that can aid in minimizing complaints of nondiscriminatory assessment by providing school personnel with directions and information on appropriate evaluation materials.

3. Severely Emotionally Impaired/Autistic Institute. A videotape from this institute has been made and a document of the proceedings has been compiled. This institute concentrated on better assessment for autistic students.

4. Assessment of the Physically and Otherwise Health Impaired (Low Incidence Population). The document of the proceedings from this institute is useful for school psychologists and other diagnostic personnel in the assessment of the POHI student.

5. Parent Consultation as an Alternative to Litigation Institute - Experts from the University of Michigan. The document was developed as a result of a training institute. It describes methods and approaches for consulting with parents to effect better communication and thus limit litigation.

6. The Law as it Pertains to Assessment and Placement of Handicapped Persons. The document contains the latest information on what the courts are saying about special education assessment and placement.

7. Due Process Model Training. The document presents a model on due process training procedures that are consistent with the Michigan Mandatory Special Education Law and P.L. 94-142. The material includes a manual and a slide tape presentation.

Scope of System

The Special Education Service Area (SESA), in conjunction with the Office of Professional Development of the Michigan Department of Education, has initiated a plan on Comprehensive System of Personnel Development (CSPD) which focuses on assistance in the assignment of handicapped students to most appropriate environments. The primary components of this plan are inservice education, preservice education, dissemination, and evaluation. This system has been established to meet the following imperatives: needs assessment, delineation of priorities, advisement by the Special Education Personnel Development Advisory Committee (SEPDAC), nature and extent of available resources, dissemination, training, and corresponding systems evaluation.

It was likewise established to provide for the following assurances to conform to the mandates of P.L. 94-142: information and training to both regular and special education teachers to enable them to provide more meaningful experiences for handicapped students in the least restrictive environment; technical assistance to teacher-training institutions on potential revisions to training curricula; technical assistance to parents to apprise them of current information on rules and regulations regarding P.L. 94-142 and their rights as specified in the law; and assistance to other groups such as support personnel, to assure their awareness of their role in the state's commitment to educate handicapped children and youth in the least restrictive environment.

Intensive inservice training provided to identified groups in the last two years has expanded and strengthened the human resources training base for the state. In addition, earlier surveys on available human resources have generated a list of professionals who have capabilities to provide training to teachers and support personnel involved in the education of the handicapped. This information is retrievable through the Information Dissemination Service Center (Attachment A, Appendix O). This cadre of trainers and training experts identified through the human resources surveys shall constitute the inservice training corps for FY 1980-81 through 1982-83.

A composite schedule on training activities that relate to placement of handicapped students in least restrictive environment, purported for conduct in 1980-81 through 1982-83 is included as Chart 6 of this chapter.

This comprehensive system of personnel development provides for the participation of all educational units within the state through the following: collaboration among ISDs and corresponding LEA constituencies, parents, and teacher training institutions within their service boundaries to determine and prioritize needs, to develop training objectives and strategies, to evaluate the delivery system, and to revise the plan when necessary.

Chart 6 reflects the composite schedule for all personnel development activities for FYs 1981-82 and 1982-83, Tables 2 and 2-A contain a more finite delineation of personnel who will constitute the target audience for inservice activities.

CHART 6

Proposed Training Activities for 1980-81 through 1982-83[1]

Training Activity	Receiver Of Training	Number Of People	Geographical Scope	Funding Level	Content[2]	Training Level
1. University Collaboration with LEA's and ISD's	IHE/LEA/ISD	100	State Regional Local	$ 100,000	Competency Training	Knowledge Skill Development
2. Committee Functions						
a. SEPDAC/SCP	IHE/LEA/ISD	35	State	10,000	Dissemination Review, Advisement	Awareness Knowledge
b. Personnel Development Committee of the Whole	IHE/LEA/ISD	30	State Local	30,000	Development of Pre/Inservice Trng. Model	Awareness Knowledge Skill Development
(1) College/University Task Force	IHE	15	State Local	15,000	University Development	
(2) Field-Based Task Force	ISD/LEA	15	State Local	15,000	ISD/LEA Personnel Development	
3. Model Programs						
a. Disability Institutes	IHE/LEA/ISD	1,500	State Regional	30,000	Competency Trng Special Issues	Knowledge Skill Development
b. Training Models	IHE/LEA/ISD	1,000	State Regional	250,000	Competency Training	Development
4. Grants						
a. ISD	ISD/LEA	40,000	Regional/Local	280,000	Competency Trng	Awareness/Knowledge
b. LEA	ISD/LEA	60,000	Regional Local	1,444,370	Competency Training	Knowledge/Skill Development
c. Bilingual/Bicultural-Handicapped	Parents, Professionals	2,000	Regional	20,000	Bicultural Handicapped Issues	Awareness/Knowledge
5. Administrative Procedures	ISD/LEA	3,000	State Regional	50,000	Competency Trng Special Education Rules Issues	Skill Development/Knowledge

[1] Proposed composite schedule for all personnel development activites

[2] Content areas abstracted from competency summaries, Attachment B of Appendix O

Note: Data for 1982-83 may vary due to (a) results of needs assessments for the fiscal year, and (b) available resources as they relate to funding priorities. Other proposed training activities are detailed on pages 95-97 of this chapter.

TABLE 2

PROJECTED NUMBER OF PERSONS TO RECEIVE INSERVICE TRAINING DURING THE SCHOOL YEARS 1980-81 THROUGH 1982-83

Training Audience*	Type of Training								
	Awareness			Knowledge			Skill Development		
	80-81	81-82	82-83	80-81	81-82	82-83	80-81	81-82	82-83
Regular Classroom Teachers	7,560	7,938	8,335	12,600	13,230	13,892	5,040	5,292	5,557
Special Education Teachers	900	945	992	1,500	1,575	1,654	600	630	662
Teacher Aides	87	91	96	144	151	159	57	60	63
Parents	600	630	662	1,000	1,050	1,103	400	420	441
Support Personnel (psychology, social workers, health personnel, physical education, etc.)	1,080	1,134	1,191	1,800	1,890	1,985	720	756	794
Administrators	1,560	1,638	1,720	2,600	2,730	2,867	1,040	1,092	1,147
Operations Personnel (secretarial, clerical, maintenance, transportation, food service)	168	176	185	280	294	309	112	118	124
Hearings Officers	10	11	12	16	17	18	6	6	7
University Personnel	36	38	40	60	63	66	24	25	26

TOTALS

1980-81: 40,000
1981-82: 42,000
1982-83: 44,107

TABLE 2-A
Personnel Available to Provide FAPE
FY 1981-82

		JOB FUNCTION	
tructional Staff	GENERAL EDUCATIONAL	Professional Classroom Teachers	85,260
	SPECIAL EDUCATIONAL	Mentally Retarded	3,061
		Hard of Hearing/Deaf	389
		Speech/Language Impaired	1,298
		Visually Impaired/Blind	94
		Emotionally Impaired	1,306
		Orthopedic/Health Impaired	559
		Learning Disabled	1,468
		Multihandicapped/SXI	149
		TOTAL INSTRUCTIONAL STAFF	93,584
Support ersonnel	GENERAL EDUCATIONAL	Administrators	29,062
		Instructional Support, Professional	6,757
		Teacher Aides	6,332
		Other	1,111
	SPECIAL EDUCATIONAL	Psychologists/Social Workers	1,679
		Physical/Occupational Therapists	338
		Speech Pathologists/Audiologists	401
		Vocational Education/Physical Education Work Study	217
		Supervisors	292
		Other Directors	221
		Teacher Aides	5,094
		TOTAL SUPPORT PERSONNEL	51,504
		TOTAL PERSONNEL	145,088

Each educational agency establishs procedures to provide training to identified target audiences determined in need of training on specific topic areas through a needs assessment. These areas may be any or all of those included in Attachment B, Appendix O.

The types of training are defined as follows:

1. AWARENESS TRAINING. This type of training focuses primarily on attitudinal change. Included in this category are training sessions on public relations type of information such as informing school personnel and the public about P.L. 94-142, and sensitizing the audience about the needs and skills of handicapped children.

2. KNOWLEDGE TRAINING. This type of training focuses primarily on cognitive change. In contrast to type (1) training, type (2) training is of longer duration, the information is more detailed, and the participants are expected to retain the information. Some examples of topics appropriate for this category of training are: characteristics of children with one or more types of handicapping conditions; due process procedures; education in the least restrictive environment; individual education programs; classroom management, etc.

3. SKILL DEVELOPMENT. This type of training usually follows type (1) and (2) training. The training focuses on producing behavioral change in the participant in a controlled setting such as a practicum or lab situation or in the trainee's work environment. In many instances the trainee will actually work with handicapped children, parents, or school staff.

Inservice Pre-planning and Implementation

Priorities for training are determined by soliciting input from such agencies or groups as SEPDAC, parent and professional organizations, Department personnel and other advocate groups, as well as other educational agencies throughout the state.

A procedure has been established to identify on a reaction form, content areas, target audience, and levels of training required.

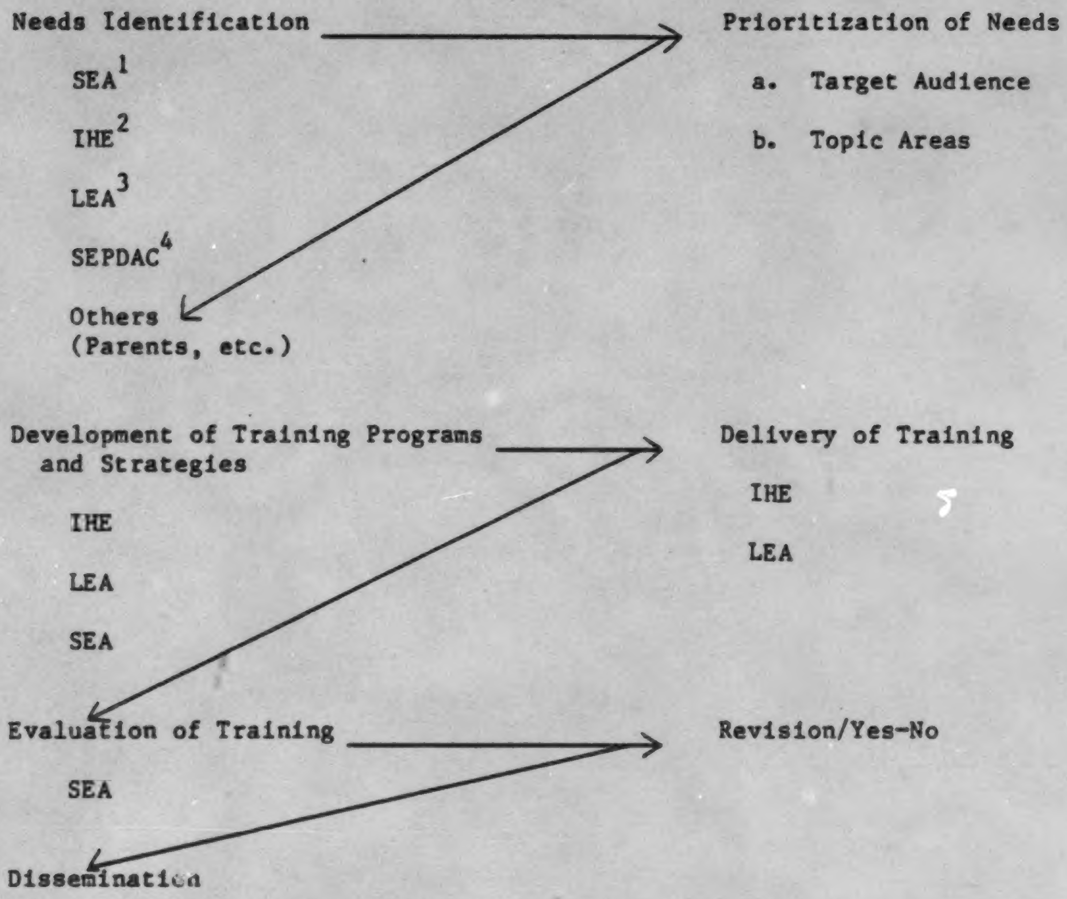
SEA compiles input data and disseminates these to school districts. Data serve as the decision base for training priorities.

Identified training priorities are reviewed annually in light of nature of training delivered during the preceding fiscal year so as to update priorities to conform to current needs. This review will be a collaborative activity involving the educational units and advocate groups identified in the following chart.

The chart presents the interface of responsibilities of all agencies involved in the Comprehensive System of Personnel Development (CSPD):

CHART 7

Inservice Training Delivery System



Needs Identification

SEA[1]

IHE[2]

LEA[3]

SEPDAC[4]

Others
(Parents, etc.)

Prioritization of Needs

a. Target Audience

b. Topic Areas

Development of Training Programs
and Strategies

IHE

LEA

SEA

Delivery of Training

IHE

LEA

Evaluation of Training

SEA

Revision/Yes-No

Dissemination

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[1] State Education Agency

[2] Institutions of Higher Education

[3] Local Education Agency

[4] Special Education Personnel Development Advisory Committee

The following explains each component with the Inservice System:

1. Needs Identification -- The SEA coordinates the activities of the IHE, LEA, SEPDAC, and others to identify content areas, levels of training, and target audience. SEA provides model forms to participants and compiles and analyzes data for incorporation in the CSPD section of the Annual Program Plan.

2. Prioritization of Needs -- The SEA coordinates the prioritization of identified needs since limited resources mandate that training cannot be provided to every individual in every content area. Identified needs are prioritized according to criteria based on immediacy of needs.

3. Development of Training Programs and Strategies -- after priorities are established, IHEs and LEAs submit proposals for training programs. The SEA reviews these programs and provide technical assistance as needed.

4. Delivery of Training -- training related to the new rules are provided by SEA staff. Most training are delivered by IHEs and LEAs at the local and regional levels. The human resources base provides a veritable source of assistance in the organization and conduct of these training activities.

5. Evaluation of Training -- all training activities are evaluated using SEA developed forms. The inservice providers are responsible for providing this information to the SEA staff. SEA compiles and analyzes data on an annual basis. From these are generated reports for accountability purposes.

6. Revision -- future training activities are judged on the basis of the evaluations and the Record of Personnel Development Activities. IHEs and LEAs, in coordination with the SEA, revise training activities on the basis of participant evaluations, needs assessment updates, staff input, concerns from OSE, etc.

7. Dissemination -- information on CSPD activities are disseminated to school districts and advocate groups through the State Communication and Dissemination System, Department of Education publications, and relating newsletters.

Needs Assessment

Before the revision of the CSPD, a concerted annual needs assessment is conducted to either identify new needs or reaffirm needs previously established. The process for needs assessment involves a four-step sequence of specific activities:

1. Analysis of existing records.
   - (a) A model reporting form has been developed to gauge concerns of identified target groups on specific topic areas related to the training provisions of P.L. 94-142 and the specific training levels (see RPDA - Appendix O).
   - (b) Data from SEA monitoring of school districts special education delivery system are reviewed.
   - (c) Training requests from LEAs are tabulated and analyzed.

2. Comparison with the results of the previous years' surveys.
   - (a) The training priorities and numbers to be trained are compared with the number reported as trained in the RPDA form.

3. Collection of opinion of concerned groups.
   - (a) Three formal hearings are conducted in different localities throughout the state.
   - (b) Formal feedback from the state Special Education Advisory Committee is received and reviewed.
   - (c) A written survey was conducted with members of the Special Education Personnel Development Advisory Committee (SEPDAC)-Steering Committee for Planning (SCP).

4. Observation and interaction.
   - (a) Meetings with providers and consumers.
   - (b) Workshops with designated coordinators of training from each district.
   - (c) Michigan Council for Exceptional Children convention.

The results of a local needs assessment consitute the primary base for funding allocations to specified audiences. Allocation of school district entitlements is based on the number of handicapped students receiving programs and related services as documented in December 1 of the preceding fiscal year. Furthermore, these will serve as the core of Personnel Development Plans of constituent school districts. The framework for training regular education personnel was established by the State Board of Education on March 8, 1979. The suggestions as to minimal or entry level competencies for teachers with handicapped students in their classrooms are translated into a competency-based training program. This currently constitutes the basis for inservice training at the intermediate and local school district level.

The composite information collected includes the updated number of available qualified personnel; the number of new personnel needed; the number of personnel requiring retraining; the content areas in which training is needed; the groups requiring training; and training levels. SESA disseminates this information to universities to assist them in planning and program development. This likewise assists SEPDAC in establishing priorities for training.

The current data collection system of the SEA provides information relative to personnel and needs projections on an annual basis. Table 2-A reflects the number of qualified personnel, both in general and special education.

Training may differ in the levels of audience awareness. It does not account for the additional training required for new personnel entering the system.

The research study entitled "Certification, Employment, and Attrition of Special Education Teachers in Michigan" completed September 1, 1979, was used to determine target populations and preservice training priorities. Table 2 reflects an estimated number of university personnel slated for training in addition to those identified by the research study.

The comprehensive needs assessment also identifies target populations. These groups include regular classroom teachers, special education teachers, parents, teacher aides, support personnel, operations personnel, university personnel, administrators, hearing officers, and other groups whose concerns are allied to those of handicapped students.

The needs assessment includes items that assist SEA in establishing program objectives and formulating training strategies that address both state and local concerns. Duration and frequency of training, costs, and relating logistics are detailed on application forms prepared by school districts for funds allocation purposes. The applications also specify training personnel and establish evaluation and follow-up procedures to assess the efficacy of services and assure that training conforms to the concerns of the CSPD.

Following are the primary components of the CSPD:

A. INSERVICE

Chart 7 presents the overview of the inservice training structure. At the onset of each training year, SEA, through needs assessments and needs prioritization, establishes priorities for emphasis. Fiscal and technical assistance is provided to school districts on the basis of needs. Relating plans are developed and reflected on application documents devised by SEA to conform to specific criteria.

Funds are distributed through grants after review of school district applications. This review is conducted by SESA, SEPDAC, and other groups whose expertise relate to content of applications. These grants enable each ISD to provide training for regular and special education personnel. Applications from school districts also include priorities for training, particularly as these relate to content, audiences, and levels. The results of the annual needs assessment identify needed areas of inservice training and assign priorities to those areas, particularly as they relate to the content of P.L. 94-142. The content and nature of the training explained in detail on pages 66 thru 68 include the following:

1. Individualized education programs: this concern is included in the training on the new procedures for IEPCs.

2. Least restrictive environment: this is included with the area on vocational education alternatives for the handicapped.

3. Procedural safeguards constitue the basis for the areas on dissemination and implementation of the state monitoring standards and the role of hearing officers and the investigation process.

Additionally, the results of the annual needs assessment within each ISD identify needed areas of inservice training by competency and assign priorities to those areas (Attachment D, Appendix O). Each ISD receives grant funds to address the priorities by competency identified by the annual needs assessment. These grant funds are based upon the number of students reported on the December 1, 1980 count form, SE-4568.

The SEA's analysis of the needs assessment results is reflected in the prioritization of the specific competencies on a statewide scale. Although identified needs of each district show a trend supporting the existing prioritization of these specific competencies, the specific needs of the district may vary due to population and geographic uniqueness.

The competencies listed in Attachment D, Appendix O detail special education competencies in which all teachers of handicapped children should be trained.

Training activities are collaboratively developed and implemented at the local, regional, and state levels. Each ISD appoints a person to coordinate training activities. Responsibility includes identifying need, coordinating training activities at the local level, and communicating with the Special Education Development and Training Unit.

As indicated on page 15, Chapter III, 3% of the proposed 87% flowthrough funds to school districts is allocated for personnel development on specific topic areas. Training areas for fiscal year 1982-83 shall be determined after the conduct of relating needs assessments.

For fiscal year 1981-82, training will be conducted for or on the following:

(a) Comprehensive System of Personnel Development $937,824*

Section 300.380 of P.L. 94-142 mandates that each Special Education Agency formulate and implement a comprehensive system of personnel development. Michigan's system includes advisement, planning, research, and the initiation, review and evaluation of personnel development projects on a statewide basis. Training includes special and general education personnel and parents, and relates to preservice as well as inservice aspects. Activities are coordinated with that of the Professional Development Advisory Council of the Michigan Department of Education. 3% of the proposed 87% of funds entitlement is allocated to finance personnel development activities statewide. $50,000 is allocated for the conduct by SESA of activities that directly relate to personnel development. These include the committee functions for CSPD, the personnel attrition study, the RPDA summary reports, training sessions on the manual of teacher competencies, a study on teacher/student attitudes towards the handicapped, and evaluation of collaboration projects in a number of colleges and universities.

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*3% of anticipated funds ($887,824) + $50,000

(b)	Development of Program Suggestions for Implementing the Revised Special Education Rules	$33,000

Inservice activities for FY 1981 focus on the guidelines developed for the new rules and their corresponding implementation. These activities are slated for continuation in FY 1982.

(c)	Role of Hearing Officers and the Investigation Process	$20,000

A series of inservice sessions will be conducted to educate prospective hearing officers on their respective roles as defined in special education rules and regulations. Another inservice activity will be focused on the investigation process and this shall be the vehicle to apprise those concerned with the various areas and procedures that assure the appropriate conduct of investigations.

(d)	Diagnostic/Treatment Teachers for Hearing Impaired Students with Behavioral/Emotional Problems	$15,000

Workshops will be conducted for personnel to improve their current competencies on diagnosis and treatment of students with behavioral/emotional problems. These sessions are anticipated to develop procedures for more appropriate assessment and placement of these students.

(e)	Autism: Teachers and Diagnostic Personnel	$10,000

The State Board of Education has specified a need for workshops for teachers and diagnostic personnel who work with autistic children. This allocation will allow SEA to conduct workshops through the use of human and materials resources that are anticipated to upgrade competencies of administrators, paraprofessionals, etc. Parents shall be included to develop competencies in dealing with the autistic.

Training Incentives

Each educational agency shall be required to insure the use of incentives for training. SEA encourages the use of released time, salary stipends for participation, and options for academic credit. The need to update professional skills is also emphasized. The final determination of incentives remains at the local level however, and is collaboratively determined during preparation of application on proposals for training.

B. PRESERVICE

The structure for personnel development related to preservice is the same as that ascribed for Inservice, Section A, of the CSPD. Grants are established to evaluate the participation of some IHE involved in the collaboration projects with school districts. These projects are conducted to assure that prospective teachers are provided training on competencies that are assigned as priorities by the SEA (Attachment D, Appendix O). This attachment also indicates the target audience for these activities.

SEA provides colleges and universities information related to needed areas and target populations of presevice training. The College/University Delivery Systems Task Force Committee assigns priorities to the needed areas in coordination with SEA staff.

Rule 340.1782 of the Administrative Rules for Special Education addresses additonal requirements in the special education training sequence. Colleges and universities are required to include a training component on state and federal regulations for the handicapped (Attachment F, Appendix O).

In addition, Rule 390.1123 requires the professional education of ALL regular education teachers to include 20 semester hours of knowledge concerning characteristics of the handicapped person and the methods and techniques of teaching such persons (Attachment G, Appendix O).

C. DISSEMINATION AND ADOPTION

The Michigan Department of Education has internally established a centralized linkage system which retrieves and disseminates educational information to school districts, parent organizations, institutions of higher learning, and a variety of educational organizations. Activities across all related service areas of the department are coordinated into Planning which operates through the State Library. Within a short period of time, a teacher or administrator can access, by computer, information on resource persons knowledgeable about any specific subject, method, or teaching technique identified by their local needs assessments.

The Special Education Service Area is a distinct component of this system and as such, collaborates with other service areas in disseminating and receiving information that relates to innovative and promising educational practices and human resources germane to the education of the handicapped in the least restrictive environment. Procedures for the development, adoption, and dissemination of information concerning proven educational practices and materials are included in cooperative practices between the Title VI-B and the Title VI-C Units within the State Department of education.

A variety of promising educational projects, many of which have been previously validated by the department and a few nationally, has been generated within Michigan. These projects, generally designed to facilitate "mainstreaming" (LRE) by providing workable techniques for individualizing instruction are presently available to school districts. Special Education Services assist school districts in incorporating such promising practices by: (1) providing for the demonstration of materials and their viability to ongoing statewide personnel development activities; and (2) allowing for their review and demonstration by school districts who submit satisfactory grant applications for funding. School districs and institutions of higher learning are informed of these training activities through written correspondence to local and intermediate school district superintendents, Special Education Learning Media Centers, and the universities.

In addition, SEA has established a project entitled the "Statewide Communication and Dissemination System" related to the handicapped. This project provides a communication and interpretation link between local and intermediate school districts, the state department, and other pertinent groups; disseminates pertinent information regarding special education to special education personnel; coordinates inservice workshops for special education administrators regarding current and pressing issues; maintains constant awareness regarding state and federal grant opportunities and shares them with the field via Federal Register and other resources; provides a communication vehicle throughout the state by attending meetings of Michigan Association of Intermediate Special Education Administrators, Michigan Association of Administrators of Special Education, Special Education Supervisors of Michigan, Special Education Service Area and others for information-sharing; publishes a statewide newsletter on a monthly or bi-monthly basis depending upon need; and develops an effective information fan-out system. It also condenses current and proposed legislation concerning special education, gives brief analysis, and forwards reports to local and intermediate districts when possible to assist with specified problems as facilitators in the following areas: state and federal resources available to districts and an available human resources list of professionals, both in state and nationally, to aid in the resolution of problems.

Another dissemination activity includes the establishment of a statewide system of appropriate media, consultation and information services for the visually impaired. The objectives of the project are: coordination; administration, staffing and budgeting; central registry of users and their learning modalities; depository: search, acquisition, storage and dissemination; statewide inventory and control; projection; evaluation of: statewide service, existing materials, student match, and examination of new materials; information services (clearinghouse concept); inservice training; consultation; and volunteer services.

D. EVALUATION

The evaluation of activities pertaining to the Comprehensive System of Personnel Development is a joint responsibility of the Special Education Service Area and the Research, Evaluation, and Assessment Services (REAS) of the Department of Education.

The REAS provides technical assistance for the evaluation of the system and develops evaluation formats which are presented to the Special Education Personnel Development Advisory Committee (SEPDAC) for review.

The conceptual model for evaluation of the system is developed under the following headings:

Implementation Evaluation
Process Evaluation
Content Evaluation
Outcome Evaluation

The primary goal of the Comprehensive System of Personnel Development is to provide adequate training for individuals involved in special education programs and services leading toward the full implementation of P.L. 94-142, the Education for All Handicapped Children Act; P.A. 451, as amended, the Michigan Mandatory Law; and Section 504 of the Vocational Rehabilitation Act of 1973. This conceptualization model, with the objectives identified under the above goal, is developed in accordance with the goals of the state Comprehensive System of Personnel Development.

The Record of Personnel Development Activities (RPDA) assessment form has been developed. It provides information on areas for training and groups requiring training. It also provides a common instrument for collecting data on training activities from the 22 regions in the state, from intermediate and local school districts, and from target buildings. The RPDA form offers a succinct means of documentation for intermediate school districts to record evidence of compliance with P.L. 94-142, particularly its provision on personnel development activities in respective intermediate school district plans.

An additional one-page record form has been developed to take-in data on: (1) the content and nature of the training; (2) the method training was provided; (3) the audiences provided training; (4) funding sources; and (5) procedures for evaluation.

Other established procedures such as workshop-session evaluations and follow-up and assessment surveys to gauge attitudinal changes and competencies also constitute the evaluation process. In addition recipients of P.L. 94-142 grant funds establish an evaluation procedure in the application and summarize responses to the evaluation procedures in the resulting final report submitted at the end of the fiscal year.

Monitoring

The SEA monitoring standards, as briefly discussed in Chapter XV of the document, details the processes by which compliance to the mandates of P.L. 94-142 will be monitored. The Comprehensive System of Personnel Development is a component of this monitoring system. In addition, members of the Title VI-B staff conduct additional onsite visits for each project on an annual basis.

Technical Assistance

Technical assistance is provided through the following activities: consultant services to educational agencies upon request, data collection, analysis and dissemination, publication of documents, assisting in the preparation and conduct of conferences, workshops and meetings.

Provisions are likewise made to provide assistance to school districts to plan, manage, organize and evaluate their Comprehensive System of Personnel Development so they are in accord with the state CSPD.

CHAPTER X. PARTICIPATION OF PRIVATE SCHOOL CHILDREN

The SEA has established policies and procedures to assure that children enrolled in private and non-public schools participate in special education programs and services assisted or carried out under Part B, Public Law 94-142, to the extent consistent with their number and location in the state. This chapter delineates processes and parameters that deal with the provision of programs and services to these children. The State Consitution specifies the following:

> The legislature shall maintain and support a system of free public elementary and secondary schools as defined by law. Every school district shall provide for the education of its pupils without discrimination as to religion, creed, race, color or national origin.
>
> No public monies or property shall be appropriated or paid, or any public credit utilized by the legislature or any other political subdivision or agency of the state directly or indirectly to aid or maintain any private, denominational, or other non-public, pre-elementary, elementary, or secondary school. No payment, credit, tax benefit, exemption or deduction, tuition voucher, subsidy, grant or loan of public monies or property shall be provided, directly or indirectly, to support the attendance of any student or the employment of any person at any such non-public school or at any location or institution where instruction is offered in whole or in part to such non-public school students. The legislature may provide for the transportation of students to and from any school. (Article 8, Section 2)

While the Constitution of 1963 prohibits direct support of non-public schools, it does not prohibit the public schools from providing services to handicapped students attending private or non-public schools. The School Code of 1976 makes the following provisions:

> The board of a school district that provides auxiliary services specified in this section to its resident pupils in the elementary and secondary grades shall provide the same auxiliary services on an equal basis to pupils in the elementary and secondary grades at non-public schools. The board may use state school aid to pay for these auxiliary services. The auxiliary services shall include health and nursing services and examinations; street crossing guards services; national defense education act testing services; teacher of speech and language services; school social work services; school psychological services; teacher consultant services for handicapped pupils and other ancillary services for the handicapped; remedial reading; and other services determined by the legislature. Auxiliary services shall be provided under rules promulgated by the State Board. (Section 1296)

Ancillary and related services for handicapped is defined in R 340.1701 of the Administrative Rules (Appendix B) as those services specially designed to meet the unique needs of a handicapped person, ages 0 through 25, including, but not limited to, all of the following: audiological, medical, psychiatric, psychological, speech and language, or educational evaluation; occupational, physical, recreational, music, work, or other therapy; mobility and orientation services; special education services provided by other non-teaching personnel; transportation; and other services designed to assist the regular education student, including school psychological and social work services. Also included is instruction provided by special education teachers designed to assist regular education students who are homebound, hospitalized, or placed in juvenile detention facilities.

The Michigan Auxiliary Services Act and Related Rules require that all school districts provide students enrolled in private or non-public schools with a genuine opportunity for equitable participation in special education services in accordance with requirements established by the School Code of 1976 and P.L. 94-142. R 340.292 of the Michigan General School Laws requires school districts to notify in writing, no later than April 1 of each school year, all non-public or private schools within each district as to the available subgrants for programs and services.

P.L. 94-142 regulations require that an applicant for a subgrant shall consult with apppropriate representatives of students enrolled in private or non-public schools during all phases of the development and design of the project covered by the application. Services covered in the application shall be consistent with the number of eligible handicapped students and their corresponding needs. Participating districts are required to consult with representatives from the private or non-public schools on all phases of the development and design of projects for programs and services that will be available for handicapped students, including how the children's needs will be identified, what benefits will be provided, how these benefits will be provided, and on how these services shall be evaluated to assure that they are meeting the needs of the handicapped students.

Participating districts are likewise required by federal law to assure that the extent of consultation with non-public or private school representatives is consistent with the number of eligible private school students and their needs. Prior to decisions on program changes or revisions, or on items that may affect the opportunities of eligible students to participate in the project(s), school districts shall provide private or nonpublic schools the genuine opportunity to express their views regarding proposed changes or revisions. Non-public or private schools may refer students suspected of being handicapped at any time. These referrals will be treated as any other referral and will be processed in accordance with timelines established for public school referrals. A subgrantee or school district shall determine the following matters on a basis comparable to that used by them in providing for the participation of public school students: the number of students who will participate in the project and the benefits that the subgrantee or school district will provide under the project or program to those students. Procedures to determine needs and number of students, and anticipated benefits for these students enrolled in private or non-public schools shall be the same as those used for public school students. The same needs assessment and child count forms which delineate diagnostic definitions for eligible students shall be used (Form SE-4568). Private and non-public school students shall be counted in the public school count of children receiving special education as listed on the intermediate school district central register of handicapped students and for the purpose of reporting, they will likewise be treated as public school students.

Since public school personnel shall be providing needed services to private or non-public handicapped students, the quality and scope of these services and the opportunity for participation shall be comparable to those provided for public school students of the same needs, attendance area, group, age, or grade level. To assure that all handicapped students are provided with appropriate services, school districts are required to provide different program benefits to handicapped students in non-public or private schools if their needs are not consistent with those of students in the public schools.

Participating districts are likewise required to spend the same average amount of program funds for handicapped students in both public and private or non-public schools, so as to guarantee the equitable provision of benefits to all eligible students. School districts shall spend a different average amount on program benefits for students enrolled in private schools if the average cost of meeting the needs of these students is different from the cost of meeting the needs of students enrolled in public schools.

Participating districts applying for sub-grants to use flowthrough funds for programs and services are required to submit an application form (SE-4625, Appendix K). This form includes assurances and requires relating information on the following: description of process of meeting requirements for participation of students enrolled in private or non-public schools, number of students identified to participate in the project, basis of selection of participants, and other requirements detailed in school district plans. Assurances in the application form likewise specify that the conduct of the project or program/service shall be consistent with policies defined in the Amended Annual Program Plan developed by SEA and the ISD plans reviewed and approved by the State Board of Education.

Programs and projects carried out in public facilities involving joint participation by handicapped children enrolled in non-public schools shall not include classes that are separate on the basis of school enrollment or children's religious affiliation. Services provided to eligible students in private or non-public schools are designed to supplement existing levels of instruction and cannot, under law, be used to cover instruction in these same schools nor to otherwise benefit the private school. Program funds for P.L. 94-142 shall be used to meet specific needs of handicapped students enrolled in these schools rather than the needs of the private or non-public school itself, or the general needs of all the students enrolled in these schools.

School districts may use program funds to make public personnel available in other than public facilities to the extent necessary to provide equitable program benefits designed for students enrolled in a private school, if those benefits are not normally provided by the private school but determined as necessary for the student's appropriate education. School districts may likewise use program funds to pay for the services of an employee of a private school if the employee performs the services outside of regular hours of duty and performs these services under the public school's supervision and control.

SEA and the public agency within which the private school or facility is located shall continue to assume the responsibility of assuring that: the IEP shall be implemented as developed; all relating requirements shall be complied with as specified; and these services shall be monitored by the SEA, ISD and LEA.

SEA shall likewise continue to require school districts to report data on the number of handicapped individuals in non-public schools.

SEA shall also require school districts providing educational and related services to children enrolled in non-public schools to maintain administrative control and direction over those services.

Since all programs and services are operated by the public schools, there is no possibility that funds or property and supplies acquired and provided under P.L. 94-142 will benefit private schools. Such property or equipment shall be in the name of the public agency. This same agency shall maintain the equipment, monitor and document their use, and assure their availability within the premises. Equipment and supplies may be kept in the private or non-public school for the period of time needed by the project and these shall be removed when no longer needed. Removal from the private school premises should be effected to prevent their utilization for purposes other than those of the project and that removal shall not necessitate the remodeling of the private or non-public school facilities. The SEA also requires that project funds shall not be used for the construction of private school facilities.

CHAPTER XI. PLACEMENT IN PRIVATE SCHOOLS

This SEA shall continue to implement existing policies and procedures to assure that handicapped children in private schools that request services will be provided with free appropriate services on the same basis as public school students. These will be in conformance with individualized education programs and at no cost to their parents or guardians. The State Education Agency shall assure that such schools meet the same standards that apply to state and local education agencies, and that students so served have the same due process rights as students attending public schools.

To provide for free appropriate services to handicapped students in private schools, this SEA shall require school districts to comply with the following policies regarding individuals being served in private schools.

1. When a handicapped child is offered a free appropriate public education in a public education agency that is readily accessible to the child's home community and the parents opt for a private school placement, the parents shall assume full financial responsibility for the child's education.

2. If parents contend that they have been forced to seek private schooling for their handicapped child at their own expense because an appropriate program does not exist within the public agency, and the responsible public agency disagrees, due process complaint procedures will be applied to determine appropriateness and to assure that the public agency provide programs and services as prescribed through the IEPC process.

3. Private schools shall be provided with information regarding special education services available under the Michigan Auxiliary Services Act.

Private schools shall likewise be provided with the opportunity to participate in the development and revision of standards that relate to special education. SEA shall provide private schools copies of State standards and corresponding revisions, if any.

Michigan law requires that the public school system make special education programs and services available to all handicapped children. If the parents choose to place the child in a private school or facility, the public agency is not required by law to pay for the child's education at the private school or facility. The 1980 non-public school census reported 206,419 students enrolled in non-public schools, out of which 541 were catagorized as handicapped. Chapter X of this Plan describes the procedure to be used by the public agency in making services available to handicapped children attending private schools as required under Sections 100b.650 through 100b.662 of the Educational Division General Administrative Regulations (EDGAR).

CHAPTER XII. RECOVERY OF FUNDS FOR MISCLASSIFIED CHILDREN

The SEA has established procedures to assure that it shall recover any funds made available for services to any child who is determined to have been erroneously classified as eligible to be counted under Part B of P.L. 94-142.

Whenever it is alleged that Part B funds have been used for services to a child who is determined to be erroneously classified as eligible for services under Section 611(a) or (d) of the Act, the SEA shall use this procedure to recover funds:

1. Conduct a project and a financial audit of the program or program components within the school district in question.

   If it is determined that an audit exception has occurred, the following steps shall be taken:

   (a) Request the school district or agency to revise the December 1 count submitted to SEA. This will result in the revision of the report on child count submitted by the SEA to the Office of Special Education in February and the consequent reduction of the total state entitlement for P.L. 94-142 funds. Since child count for purposes of P.L. 94-142 is conducted a year prior to provision of services, SEA shall recalculate the entitlement for the school district based on the previous year's count, to assure that school district is not given more than the entitlement that corresponds to documented child count.

   (b) Request school district to return funds directly to the department. These funds should correspond to the number of children deemed to have been misclassified within the fiscal year in which the exception occurred.

The SEA current procedures on monitoring shall also apply to the implementation of relating provisions of P.L. 94-142.

CHAPTER XIII. HEARING ON LEA APPLICATION

The SEA assures that final action with respect to any application submitted by a local education agency or an intermediate school district shall not be taken without first providing the local education agency or intermediate school district involved with reasonable notice and opportunity for a hearing.

Specific reasons for the rejection of an intermediate district's project application, as well as the conditions which must be met in order for the project to be approved shall be given, in writing, to that district. Whenever a project application is not approved by the state education agency, written appeal for reconsideration may be requested by the district. This request must be made within 60 days of the original denial.

If the intermediate district can prove that all of the conditions for approval have been met, the application shall be approved and corresponding funds released.

If any portion of the intermediate or local school district application requires a deviation from the provisions of the State Code, the following procedures have been established by law to insure reasonable notice and an opportunity for a hearing.

> R 340.1734. Deviations from rules.
>
> Rule 34. Deviations from these rules may be requested in writing by an intermediate or local district operating or contracting special education programs and services for the state board of education. A copy of the request shall be filed concurrently with the superintendent of the intermediate school district or districts in which the affected handicapped persons reside. Within 7 days of receipt of the request, the intermediate school district shall file with the state board of education its objections to, approval of, or position regarding the same. The state board of education shall act not later than 30 days of receipt of the request. It may grant the request in writing for a period not to extend beyond the end of the school year or the end of the fiscal year, whichever comes first, and upon such terms and conditions as it shall specify only when in its judgment, the best interests of those handicapped persons affected by such deviation are served and good cause is shown. If deviation from a rule in part 3 is necessitated to provide a temporary placement for a handicapped person under subrule (e) of rule 22, the state board of education may shorten the time limits in this rule upon the request of the agency requesting the deviation. A deviation shall not be granted to exclude or deny a handicapped person the special education program or service which he requires.

CHAPTER XIV. ANNUAL EVALUATION

The evaluation of the delivery of special education programs and services within the state is conducted at three different levels. Both process and product evaluation shall occur at each of these levels:

1. This SEA shall continue to evaluate the special education delivery system of the ISDs. This process is described in detail in Chapters VII and VIII of this Plan and R 340.1831 through R 340.1852 of the Administrative Rules in Appendix B.

   The SEA shall continue to evaluate the components of the special education delivery system which relate to Federal projects. Evaluation teams will be utilized during the 1980-81 school year to conduct ongoing and annual visitations to all federally-funded projects. Written reports regarding project operations and activities with consistent follow-up, are developed to apprise SEA and school districts of project status. The funds for this evaluation are derived from the SEA allocation of P.L. 94-142 monies. Federal projects relating to P.L. 94-142 and Title I of P.L. 89-313 also constitute specific components of the State Monitoring standards. As such, monitoring teams see to it that these projects are operating in conformance with these laws.

2. The SEA has a department-wide validation and evaluation compendium which includes the assessment of processes and projects of school districts' special education and general education programs. This includes student assessments, projects evaluation through the validation process, and evaluation of SEA special education staff, which is conducted annually in collaboration with the Michigan Department of Education's Research, Evaluation and Assessment Service Staff.

3. The ISDs must include within their plans a process for evaluating and monitoring the delivery of special education by each of their constituent local districts.

   The State Board of Education has established a set of minimum criteria to be used in the development and approval of the ISD evaluation system. This includes evaluation of the program components as required by Michigan's mandatory special education legislation as well as those required by the Rules for P.L. 94-142. Funds for this evaluation will be derived from the districts' P.L. 94-142 flowthrough money. Corresponding school district application for funds includes an evaluation component.

CHAPTER XV. ADDITIONAL REQUIREMENTS

Responsibility of the State Board of Education for all Educational Programs

The SBE is responsible for all educational programs in the State. The agencies authorized by legislation to operate special education programs must comply with all laws, as well as the rules established by the State Board of Education. The first part of this chapter describes how SEA will meet its constitutional responsibility to provide leadership when special education programs are operated by agencies other than the public schools. The rest of the chapter describes monitoring procedures to assure that all agencies are in compliance with P.L. 94-142 and that funds are distributed in accordance with the requirements of the law.

Michigan School for the Blind and Michigan School for the Deaf

The Michigan School for the Blind in Lansing and the Michigan School for the Deaf in Flint are established by law as components of the state public school system. The two state schools are under the direct administrative supervision of the State Board of Education. They function as units of the Special Education Service Area of the Michigan Department of Education. Each school has a superintendent who is responsible to the state director of special education.

The state schools shall comply with all rules and laws regarding identification, diagnosis, determination of eligibility, placement, service, and follow-up of handicapped students. They are treated like ISDs by the SEA and investigation of complaints alleging violations of rules or statutes are conducted along the same procedures used for similar complaints in Intermediate School Districts. Alleged violations of state board policy governing the operation of the schools are investigated by appropriate Department of Education personnel.

Department of Mental Health (DMH)

Department of Mental Health is responsible for operating special education programs in state facilities for the emotionally impaired. The responsibility includes the availability of free appropriate public education, the employment of properly certified personnel, and the provision of adequate and appropriate facilities and necessary instructional supplies and materials in order to implement appropriate special education programs and services. The Department of Mental Health facilities for the emotionally impaired are required to provide all special education programs and services necessary to develop the maximum potential of each handicapped student as prescribed for local education agencies in section 380.1751 - 380.1761 of the School Code. These facilities shall follow the procedures for the IEPC/IEP rules as indicated in the Special Education Code, and the hospital director (or designee) shall have the same responsibilities as a school superintendent in implementing these procedures. The State Board of Education and the Department of Mental Health recognize these facilities as local education agencies. Appendix H spells out the criteria for student eligibility in state institutions.

Individuals admitted to a Department of Mental Health facility for the emotionally impaired shall be determined eligible under requirements of R 340.1706 unless they have graduated from high school, have completed an approved course of study, or are 26 years of age or older. Unless otherwise indicated by the IEPC, each student is provided a minimum of 900 clock hours of instruction annually, from teachers endorsed in the area of emotionally impaired and/or in other SESA approved categories. The ISD in which the Department of Menal Health facility is located has the same responsibilities toward the facility as it does with each local education agency in the district, including monitoring for compliance. In implementing their responsibilities, the ISD shall include the Department of Mental Health facility in its ISD annual plan for special education programs and services as prescribed by the Michigan Department of Education.

Department of Social Services (DSS)

Act 150 of the Public Act of 1974 authorizes the Department of Social Services to directly operate programs. The Department of Social Services provides special education programs and services to handicapped youth who are admitted to the State-operated institutional programs. These programs are operated by the Department and serve only state wards who are committed to the Department by the county juvenile court system. The Department of Social Services is responsible to assure that programs are operated in accordance with state and federal statutes governing the delivery of special education programs and services. Appendix G details responsibilities of the Department of Social Services towards delinquent handicapped students. The section also refers to the DSS role and alludes to the plan for services delivery.

Under this agreement, the Department of Social Services is treated as an intermediate school district. The Department of Social Services develops a special education plan identifying means by which the agency will identify and diagnose students suspected of being handicapped, maintain records, operate and evaluate programs, investigate complaints, and otherwise provide special education programs and services as required by state and federal statutes. The plan is written in the same manner and format as prescribed in R 340.1832 of the Administrative Rules for intermediate plans.

The Department of Social Services hires central office staff to be responsible for implementation of the plan. The DSS likewise investigates complaints alleging violations and reports its findings as prescribed for intermediate districts in R 340.1851 and R 340.1854 of the Administrative Rules.

Department of Corrections (DOC)

The SEA has initiated cooperative activities with the Department of Corrections to assure that incarcerated persons under the age of 22, who have not graduated from high school, have access to free and appropriate public education, including special education and related services. Department of Corrections facilities have conducted intensive initial evaluations to determine the eligibility of incarcerated youth for special education and related services. Appendix I includes communication between SEA and the DOC regarding cooperative services.

Monitoring and Evaluation Procedures

Programs and services provided by all public agencies (school districts, institutions, etc.) are reviewed and monitored to assure compliance with P.L. 94-142 and P.A. 451.

The SEA shall undertake these monitoring activities to assure compliance. Educational programs and related services provided within the compounds of facilities operated by both the Departments of Mental Health and Social Services are monitored at times scheduled for school districts within whose boundaries these facilities are located. Specifically, the SEA shall:

1. Collect data on the number and types of programs actually operated, number of children served, cost of programs, number of unserved students, and other data needed to monitor and evaluate the special education delivery system.

   Data will be analyzed by staff and a computer will be used to determine if programs have the following: approved personnel, appropriate student-teacher costs limited to approved special education programs and services, and assurance that all identified handicapped persons are placed in special education programs. These activities will be carried out yearly for each public agency operating special education programs and/or services.

2. Conduct monitoring of special education delivery systems for compliance with state and federal law as described in the Michigan Monitoring Manual, Appendix J. Each ISD, including all constituencies, will receive an on-site review once every three years by a specifically selected and trained monitoring team. This deals with Michigan compliance with P.L. 94-142, P.A. 451 of 1976, and P.L. 93-380 and will specifically address the following concerns: full educational opportunity, free and appropriate public education, priorities of the law, IEPs, direct services by the agency, a comprehensive system of personnel development, participation of private school children and their protection in evaluation procedures, due process procedures, least restrictive environment, confidentiality of information and child identification. Each monitored ISD will receive a copy of the Final Report. The State Special Education Advisory Committee shall also be provided with summaries of these reports. Final Reports are available for public review.

3. Review annually all applications for funds under P.L. 94-142.

4. Conduct a monitoring on-site visit at least every three years to assure that federal funds utilization meets P.L. 94-142 regulations. Procedures identified in Chapter XII of this plan will be used in the recovery of funds for misclassified children.

5. Select a random student sample for comparison of individualized education programs with programs actually provided and determine if the ISD monitoring/evaluation procedure as described in the Michigan Monitoring Manual has been implemented.

The State Board of Education has established the following rules which allow citizens to file complaints.

Part 8 of the Administrative Rules (R 340.1851 through R 340.1853, Appendix B) establishes the responsibility of the SEA and school districts in processing complaints and conducting investigation of allegations. The section likewise details relating procedures. Appendix P is the revised handbook on compliance and complaint procedures recently adopted by the Department of Education.

The State Board of Education established a Compliance, Approval and Monitoring Program within the Special Education Service Area of the Department of Education in July, 1977. The Compliance, Approval and Monitoring Program is responsible to review, investigate and act on any allegations of substance which indicate a violation of state law, rules, or the provisions of Public Law 94-142 as these relate to the education of handicapped persons.

When a district is found to be in noncompliance with any provision of P.L. 94-142, federal funds shall be withheld by using the procedures for withholding funds described in Chapters XII and XIII of this plan.

Policies and Procedures for Use of Part B Funds

The Michigan Department of Education has developed specific policies and procedures governing the expenditure of EHA-B funds, which are directed at accomplishing the goal of full educational opportunities, including calling for applications for programs and projects which are designed to meet the special educational and related needs of handicapped children based on the following:

1. Services to the previously unserved;
2. Services to those inadequately served beginning with the most severe; and
3. Specific categories determined on a statewide need.

Part B funds will be allocated in accordance with Section 611 and Section 612 of the Act. Chapter III includes the spending plan and Chapter XVI presents a description of the use of Part B funds in more detail.

As indicated in Chart 1 of Chapter I, the State of Michigan is now providing full service to all eligible students as required in Section 612 of P.L. 94-142.

The SEA shall coordinate the activities, programs, and services generated from all other sources of federal appropriation for handicapped individuals, such as Title I of P.L. 89-313 and Title VI-C to ensure maximum utilization of these funds for supplemental purposes. The interfacing of these activities shall also be cooperatively planned with the Michigan Department of Education's Professional Development Center.

The State Education Agency assures that the funds allocated for FY 1981 under the following authorizations will be expended in a manner consistent with the goal of providing free and appropriate public education for all handicapped children.

Source	Amount of Funds for FY 1981	Administration	Purpose
Title I 89-313	$ 7,849,666	Special Education	Supplement programs for Trainable and Severely Mentally/Multiply Impaired (including MSB, MSD, EI programs in psychiatric hospitals)
Title VI-Sub C (MDBS)	282,503	Special Education	Develop and expand deaf/ blind programs
Title IV-C	980,000	General Education	Develop experimental and demonstration on model programs in Special Education
Vocational Education 10% of Total	2,778,868	Vocational Education	Support special programs to assure successful vocational preparation
TOTAL:	$11,891,037		

Administrative control over property acquired with such funds shall remain with the public agency. The incidental use of such property for other purposes is permitted only for related educational purposes on public premises and only so long as such a use does not interfere with the conduct of a program or project.

Equipment acquired with funds under this Act may be placed on private school premises for a limited period of time, but the title to and administrative control over such equipment must be retained and exercised by a public agency. In exercising administrative control, the public agency shall not only keep records of, but also account for, the equipment. The agency must be assured that the equipment is being used for the purposes of the program, and that the equipment shall be removed from the private school premises when necessary to avoid its being used for purposes other than serving the handicapped.

The state educational agency will obtain, from a sponsoring educational agency administering a program under P.L. 94-142, a satisfactory assurance that the funds provided under this Act will at all times be controlled by a public agency in accordance with the provisions and the regulations of P.L. 94-142.

All equipment purchased with these funds shall be clearly labeled and relating inventory shall be kept on all items costing $100 or more. Upon completion of any project, any inventoried items no longer needed for the education of the handicapped must be disposed of at true market value and the funds returned to the United States Department of Education.

Funds made available under Part B of the Act shall not be commingled with state funds and shall be used to supplement and increase the level of state and local funds expended for the education of handicapped children.

Part B, state membership, and state categorical aid funds may be used simultaneously to finance identifiable excess cost portions of a project under both flowthrough and state initiated authorization.

Agencies operating Part B or other federally funded projects must maintain separate audit trails for state, local and federal sources of funding.

Appropriate records on the use of Part B funds are maintained by the SEA and agencies operating Part B projects. All information regarding Part B funds is a matter of public record and is readily accessible for public inspection.

Appendix K contains a copy of the applications which public agencies are required to complete when applying for funds under P.L. 94-142 and P.L. 89-313. Portions of the applications contain specific statements of assurance, as required of local and intermediate districts, to assure that they are in compliance with Federal Civil Rights legislation, Section 504 of the Rehabilitation Act, as well as regulations established under P.L. 94-142. The Personnel Office of the SEA has also established policies which assure that handicapped persons are not discriminated against and that positive efforts are being made to employ and advance qualified handicapped personel.

The State Special Education Advisory Committee

A Special Education Advisory Committee has been established to advise the State Board of Education on program directions, particularly as these relate to the special education delivery system. The State Board of Education organizational statute (1964 P.A. 287) was amended by 1966 P.A. 154 to include provisions for the establishment of a State Special Education Advisory Committee.

> Sec. 9a. The special education advisory committee is created in the department of education and consists of 9 members, who shall be appointed by the state board of education for terms of 3 years, except that the 3 members first appointed shall each be appointed for terms of 1, 2 and 3 years. The person within the department directly responsible for special education programs shall be an ex officio member of the committee.

Each year the committee shall elect its chairman and such other officers as it deems necessary. Members of the committee shall be reimbursed for expenses incurred in performing their functions. The committee shall act as an adviser to the board of education in the field of special education.

On March 7, 1979, the State Board of Education adopted the following six new points concerning the purpose and role of the State Special Education Advisory Committee, Appendix M:

1. The role of the Committee is to be advisory to the State Board of Education in the field of special education only.

2. The field of special education includes all matters pertaining to educational programs and services designed to serve handicapped students.

3. Some of the matters pertaining to such educational programs and services include (a) administrative organizations, local and state; (b) needs for new programs and the expansion of established programs; (c) methods and sources of financing; (d) rules and regulations pertaining to the approval of programs for state financial assistance; and (e) needed new legislative enactments.

4. The Committee should not necessarily constitute the sole source of direct advice to the State Board of Education in the field of special education, and the State Board of Education should not necessarily act only in terms of such advice.

5. The Committee might submit advice to the State Board of Education upon specific requests of the Board or it might elect to submit advice in the absence of such specific requests.

6. Other sources of direct advice to the State Board of Education concerning the field of special education might include such persons and groups as the superintendent of public instruction and his staff, school administrators, education directors and teachers, parents and parent associations, school board members, legislators, and other advisory committees which the Board may wish to appoint from time to time.

The committee has been designated as the same body to assume the role of the advisory panel as required by 300.650 to 300.653 of P.L. 94-142 regulations.

Primarily, the State Special Education Advisory Committee provides advice to the State Board of Education through the Director of Special Education, who participates in all meetings as an ex officio member of the panel.

The Committee also identifies new priorities for programs and services emphasis, innovative processes dealing with effective delivery systems, and problems or issues they become aware of through their interaction with advocates, parents, providers of service, and other groups interested in the education of the handicapped. An estimated amount of $4,000 has been established from stipulated administrative funds to defray expenses of Committee members for meetings (reimbursement for mileage, board, lodging). Eleven meetings were scheduled for the 1980 fiscal year. The number of meetings vary in accordance with perceived needs and fiscal constraints.

Appendix M includes the relating State Board of Education resolution that has designated the panel to act as the advisory body as required by Public Law 94-142.

CHAPTER XVI. DESCRIPTION OF USE OF PART B FUNDS

The Special Education Service Area works within three operational units under the direction of the State Director for Special Education.

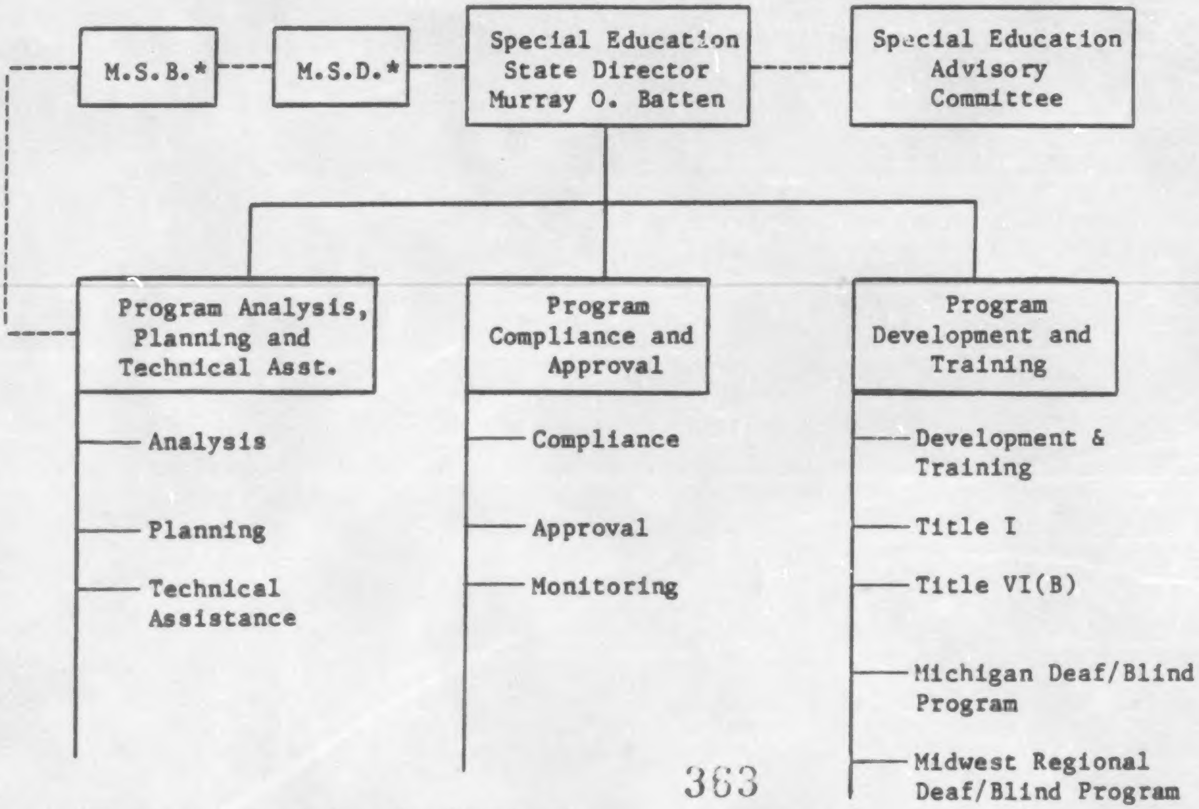
State Allocation

An estimated 5% of anticipated Title VI - Part B funds shall be expended within this operational context. Funds shall be utilized to conduct such administrative and management prerogatives as the following: administration of this annual program plan, including planning or assisting in the planning of relative programs or projects; approval, supervision, monitoring and evaluation of the effectiveness of local programs and projects; technical assistance to local and intermediate school districts; and other state leadership activities and consultative services.

Chart 8 illustrates the organizational structure of the State Special Education Service Area. Details of each unit's functional responsibilities, together with those of corresponding staff paid out of Part B administrative monies, follow the illustration.

CHART 8

ORGANIZATION OF STATE SPECIAL EDUCATION SERVICE AREA


M.S.B.*
M.S.D.*
Special Education State Director Murray O. Batten
Special Education Advisory Committee
Program Analysis, Planning and Technical Asst.
Analysis
Planning
Technical Assistance
Program Compliance and Approval
Compliance
Approval
Monitoring
Program Development and Training
Development & Training
Title I
Title VI(B)
Michigan Deaf/Blind Program
Midwest Regional Deaf/Blind Program

*Michigan School for the Blind and Michigan School for the Deaf

Summary of Functional Responsibilities by Unit

I. Analysis, Planning and Technical Assistance Program.

This section collects and analyzes data for personnel and budget projections; coordinates the planning and delivery of special education by such agencies as the school districts, the Departments of Mental Health and Social Services, Vocational Education, Michigan Rehabilitation Services and the Michigan Schools for the Blind and the Deaf to assure that handicapped children have access to appropriate programs and services; develops policy; and provides technical assistance in the enhancement, evaluation, and funding of special education programs and related services.

II. Compliance, Approval and Monitoring Program.

This section assures that all special education programs meet minimum standards and employ qualified personnel; guarantees the rights of each person suspected of being handicapped to appropriate diagnoses, programs and related services; and allows parents to appeal placements they do not consider appropriate to meet unique educational needs of their handicapped children.

III. Development and Training Program.

This section provides assistance to local and intermediate school districts and to colleges and universities with curricular offerings in special education in obtaining federal funds for personnel development, programs expansion and the development/implementation of innovative and viable programs.

The following details responsibilities of current and projected staff positions reimbursable from P.L. 94-142, Part B administrative funds:

Program Area	Responsibilities
Administration Account Executive 11 .5 position	Assists in internal budgeting and management.
Analysis and Planning Sp. Ed. Consultant VII 2 positions	Coordinate activities relating to planning and technical assistance areas of the program.
Sp. Ed. Consultant 13 4 positions	Assist in development of reports on budget projections, long range planning, statistical analyses, and data collection; provide technical assistance to the public schools and to personnel of Department of Education in regard to the interpretation of special education funding specifications.
Technical Assistance Sp. Ed. Consultant 13 4 positions	Provide technical assistance to the following: (1) intermediate schools in the enhancement of current programs; and (2) public schools,

Program Area	Responsibilities
	other state agencies and consumers in the interpretation of the Special Education code and the Michigan School Laws, particularly as these relate to special education programs and services; and identify information within districts that have implications on state planning, fiscal projections, legislative and rule changes, data projections and management.
Secretarial Support 5 positions	Support professional staff in the performance of specified responsibilities.
Compliance, Approval and Monitoring	
Sp. Ed. Supervisor 15 1 position	Supervises the following: (1) review and approval of ISD Plans; (2) program monitoring; (3) personnel approvals; (4) state hearings and investigations; and (5) liaison with Teacher Certification Services.
Sp. Ed. Coordinator VII 2 positions	Coordinate activities relating to the program area.
Sp. Ed. Consultant 13 7 positions	Conduct state-level hearings and investigations on complaints regarding alleged violations of federal and state laws; monitor and review ISD status of compliance; analyze ISD requests for deviations and recommend action; and process and review ISD plans for SBE action.
Sp. Ed. Technician 09 3 positions Ed. Specialist VI-B 1 position	Assist in performance of program's specified tasks.
Secretarial Support 5 positions	Support professional staff in the performance of specified responsibilities.
Development and Training	
Sp. Ed. Supervisor 15 1 position	Coordinates the following: development, validation, and dissemination of innovative special education programs; professional development activities with school districts and colleges and universities with special education curricular offerings; and supervises the development, approval and evaluation of projects receiving federal funds under Public Law 94-142, Public Law 89-313 and other federal grant programs for special education.

Program Area	Responsibilities
Sp. Ed. Consultant 13 1 position	Reviews applications for training and other professional development activities with school districts and colleges/universities with special education curricular offerings and provides technical assistance in evaluation and/or validation and dissemination of innovative training processes.
Title VI(B) Sp. Ed. Coordinator VII 1 position	Reviews project applications and administers allocation of resources under P.L. 94-142; coordinates evaluation of projects; and develops and submits federal reports to substantiate receipt and expenditure of project funds.
Sp. Ed. Consultant 13 3 position	Provides supportive services to local and intermediate school districts in the development, implementation and monitoring of federal projects under P.L. 94-142; acts as liaison with Title I, Title IV-C, and vocational education units; and coordinates expenditures of federal funds under these sources with those available under P.L. 94-142.
Ed. Specialist VI-B 2 positions	Review and process grant applications, review final evaluations; work with supervisor and consultant in developing federal reports; and help in monitoring projects funded under P.L. 94-142.
Secretarial Support 3 positions	Support professional staff in the performance of specified responsibilities.

One hundred percent (100%) of salaries and benefits for these staff positions shall be paid out of P.L. 94-142, Part B administrative funds. The amount constitutes approximately 33% of the total administrative funds stipulated by SEA for the administration of special education programs and services by the state Special Education Service Area.

Aside from the comprehensive preservice and inservice activities detailed in Chapter IX of this Plan, SEA also proposes to conduct and participate in similar activities on professional development. An estimated 8 per cent of Part B funds is allocated for the conduct of professional development activities on areas identified as crucial by SEA. Chapters III and IX presents a more comprehensive coverage of these proposed activities.

As of October 1, 1981, P.L. 94-142 Part B funds appropriated for FY 1980-81 which remain unobligated by the state educational agency may be carried forward for obligation and expenditure in FY 1981-82 in accordance with such statutory and regulatory provisions as are in effect in FY 1981-82.

School District Allocations

There are currently 58 intermediate school districts in the state, with 534 local school district constituencies. Of this number, 491 or approximately 92% receive funds through P.L. 94-142. Since allocation and corresponding amounts depend upon special education programs and services and the number of handicapped children served, local districts that do not operate special education programs do not receive funds. It should be noted however that handicapped children within these service areas are provided relating programs and services in other public school agencies. All the 58 ISDs submit consolidated applications for P.L. 94-142 funds based upon results of needs assessments conducted within their service areas. An average of 8 local educational agencies constitutes each consolidated application. These applications assure that defined needs correspond with those priorities specified in the law and that funds are expended for relating special education programs and services.

Child Identification, Priorities and Inservice Training

Aside from the administrative expenses earlier cited, Part B funds are also allocated for the following: (1) identification, location and evaluation of handicapped children; (2) programs to meet the priorities specified in 300.127 of P.L. 94-142 regulations; and (3) inservice training activities to develop and/or upgrade personnel competencies in regard to the delivery of free, appropriate public education to handicapped children in the state.

SEA staff likewise provide technical assistance and inservice training to project applicants and subgrantees. The Title VI-B staff has developed a set of procedures to assure the proper conduct and administration of each program to avoid illegal, imprudent, wasteful, or extravagant use of funds. These regional inservice sessions are held during the fiscal year. Five regional consultants likewise provide technical assistance upon request.

Monitoring of agencies, institutions, and organizations responsible for the operation of programs and the enforcement of obligations relative to these programs are carried out by the Title VI-B staff. This monitoring is also conducted as a component of the State Monitoring Manual. SEA shall likewise evaluate the effectiveness of each program at least once in every three years to assure that statutory objectives are met and shall cooperate with the Secretary or other Federal officials in conducting evaluation of programs.

This document includes chapters that detail specifics on the three expenditure areas earlier cited: Chapter III -- Policy on Priorities; Chapter IV -- Child Identification; and Chapter IX -- Comprehensive System of Personnel Development.

CHAPTER XVII. CONFIDENTIALITY OF EDUCATION RECORDS

SEA requires that school districts receiving funds generated by Public Law 94-142 establish a process to maintain the confidentiality of education records in compliance with P.L. 94-142, P.L. 93-380 (Family Educational Rights and Privacy Act) and Section 1711 (Act number 451, Public Acts of 1976). This process shall define education records, administrative responsibility toward the maintenance of their condifentiality, and parent and eligible student rights.

I. Education Records

The amendments to the Family Education Rights and Privacy Act define education records as follows:

> "those records, files, documents, and other materials which (i) contain information directly related to a student and (ii) are maintained by an educational agency or institution, or by a person acting for such agency or institution." [Section 438(a)(4)(A)]

Education records are those records maintained by educational agencies on any person who has received or is receiving instruction. These records are limited to those that deal with the provision of education. These also include those records on related services for the handicapped and records required by law for the operation of special education programs.

Education records are usually personally identifiable. P.L. 93-380 defines these personally identifiable records as those records which by name, address, or other particular facts, are traceable to individual students. These records are likewise defined to include student's name, parent or other family member's name, student's address, a personal identifier such as student number or social security number, and a list of personal characteristics or other information that would make the student's identity easily traceable. Education records can be categorized as (a) central registry, (b) directory information, or (c) supplemental records.

Central Registry Records

In the state of Michigan, central registry records consist of minimum personal data required by law. Administrative rules promulgated under Act 451 of the Public Acts of 1976, as amended, require the following to constitute the minimum information for all handicapped persons, 0 through 25 years of age, placed in state or privately-operated facilities.

1. The person's name, date of birth, sex, and racial or ethnic group;
2. the type and severity of the handicap(s);
3. The date of referral;
4. the educational programs and related services provided;

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5. the dates special education and related services are initiated and/or terminated;

6. the name(s), address, telephone number of parent(s) or guardian(s); and

7. the district of residence.

Directory Information

P.L. 93-380 defines directory information to include the student's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most previous educational agency or institution attended by the student.

Supplemental Records

Supplemental records include verified information considered necessary to help the educational agency provide appropriate educational services to handicapped students. These may include, but not be limited to, the following records:

1. Test results and relating reports

2. Developmental histories, case studies, personal observations and impressions based upon valuable data

3. Reports from other cooperating agencies such as community mental health, hospitals and other similar institutions and the Departments of Mental Health, Social Services, etc.

4. Narrative records that reflect factual accounts of observed behavior compiled by such professionals as school counselors, teacher consultants, school social workers, regular and special education teachers, etc.

5. Personal working notes shared in the process of providing appropriate education to handicapped students.

   The persons responsible for generating supplemental working notes are liable for the maintenance of their confidential status, particularly in the performance of their specific roles and functions within the educational agency. Personnel shall exercise discretion in the case of narrative records or other working notes as depositories for personal judgments concerning students. Teachers, administrators, and other school personnel do not enjoy absolute immunity from possible court action; thus, care should be taken to reduce their vulnerability to litigation.

Other records considered personally identifiable may include IEPC-IEP reports and annual reviews, reevaluation reports, attendance records, classes and grades attended, and grade level(s) completed.

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Exclusion From Education Records

P.L. 93-380, the Family Education Rights and Privacy Act (FERPA), excludes the following from its definition of education records:

1. Records prepared by institutional, supervisory, and administrative personnel and educational personnel ancillary thereto, which are in the sole possission of the maker(s) thereof and which are not accessible or revealed to any other person except a substitute. These include records prepared by staff in the course of their work with students.

2. Records and relating documents of the law enforcement unit of an educational agency or institution which are maintained apart from other records and are used solely for law enforcement purposes. These records are not made available to persons other than law enforcement officials of the same jurisdiction.

3. Records on employment where employment is not part of the student education program, except for co-op work-study where work is part of the education program.

4. Records on a student who is 18 years of age or older, or is attending an institution of post-secondary education, which are created or maintained by a physician, psychologist, or psychiatrist or other recognized professional or paraprofessional acting in his professional or paraprofessional capacity, or assisting in that capacity.

   These records are created, maintained, or used only in connection with the provision of treatment to the eligible student, eligible students being those who are 18 years of age or over, or are attending post-secondary institutions. These records are not available to anyone other than those providing such treatment. These records may not be available for student or parental review, challenge or control; provided, however, that these are made available for the personal review of a physician or other appropriate professional of the eligible student or parent's choice.

   Treatment does not include remedial education activities or activities which are part of the program of instruction at the educational agencies.

5. Records on alumni or on activities after graduation or after a definite period of time, as specified in the policies of the educational agency that relate to retention of education records.

   If exempt records are utilized by members of the IEPC in determining and/or recommending a change in the educational status of individuals referred or currently enrolled in special education programs, such records shall become part of education records and thereby lose sole possession status. They shall become subject to the review, challenge, or control of students and their parents.

Sources of Education Records

Education records are gathered from persons employed within the school system, parental interviews, family medical records, school psychologist, and other ancillary services personnel.

Materials received from third party agencies such as hospitals, clinics, etc. may be included with a student education records upon receipt by the school agency. If the school agency decides that materials are irrelevant and inappropriate, and not intended for educational use, these may be returned to the issuing third party agency and an explanation regarding the return be appended to the education records of the student.

Part II. Administrative Responsibility for Education Records

Administrative responsibility for the maintenance of the confidentiality of education records is established in the Special Education section of the Michigan Administrative Code of 1980. This section likewise specifies the content of student education records and the procedures for their appropriate maintenance.

A. Annual Notice

P.L. 94-142 and P.L. 93-380 both require educational agencies receiving federal funds for the operation of applicable programs to establish policies on confidentiality of education records. These shall define ways by which relating notices are to be provided to parents and/or eligible students, together with pertinent regulations that protect their corresponding rights to privacy, in connection with the collection of data and procedures relating to use, storage, disclosure, retention, and destruction of personally identifiable records.

The notification of rights shall be done annually. The information shall be provided in the native language of parents who are known to use a primary language other than English.

The statement of rights shall include the following:

1. the right to inspect and review the student's education record;
2. the right to seek to correct the student's education record, in a hearing if necessary;
3. The right to exercise control over other people's access to the student's education record; and
4. the right to be informed about rights guaranteed by law and the right to report violations of law to the United States Department of Education.

In addition to the above, the statement of rights shall include a description of children on whom personally identifiable material is maintained; the types of information sought; the method educational agency uses to

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gather information; uses made/to be made of the data; and agency policies or procedures regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information.

Adequate public notice shall be provided by the state and school districts before the conduct of such state or district-wide activities as identification, location, and evaluation of children for special education purposes. The method of notification is left to the discretion of each educational agency.

B. Maintenance

Educational agencies are required to maintain data on students currently enrolled in special education as well as on all children suspected of being handicapped. Each record shall include, as a minimum, central registry or directory information.

Each educational agency shall maintain and make available to parents and/or eligible students upon request, listings of the types and locations of data collected, stored, and used. These shall be as specific as possible and include such information as address and/or room in the agency building(s) and descriptive titles of types of records. Listings may come under such titles as central registry or administrative records; tests results: psychological, intellegence, aptitude, psychomotor, etc.; cumulative and anecdotal records, etc.

Central registry or directory information data shall be kept in a specified area. Supplemental records shall likewise be kept in the same area unless specified in agency policies, that is, where such records as cumulative, anecdotal, or psychological are maintained and kept by professional staff who use then directly and often in working with handicapped children.

If a student's education records include data regarding other students, provisions shall be made to assure that the person entitled to examine one student's records should receive or be informed of only the part of the records that pertain to the particular student. Information regarding other students in the record should be excluded to assure their confidentiality.

C. Procedural Safeguards

As a condition of receipt of P.L. 94-142 funds, each educational agency shall protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages. Procedural safeguards that relate to these concerns should be established to include the following assurances:

1. That a designated official at each agency assume responsibility for ensuring the confidentiality of all personally identifiable information. Custodianship of education records shall be specified in agency policies.

2. That all persons collecting or using personally identifiable information receive training or instruction regarding the procedures required in collecting or using material(s).

3. That each participating agency maintain, for public inspection, a current listing of the names and position designations of school officials who may have access to personally identifiable information. The list(s) may be disseminated to parent(s) or eligible students at the time the agency provides notice of rights or these may be included in school handbooks, catalogs, or school newspapers and periodic reminders. They may also be provided upon request.

These personnel may be included in the list of those school officials who will have access to student education records for legitimate educational purposes:

(a) A person appointed by the school board, i.e., superintendent;

(b) A person certified by the state and appointed by the school board to an administrative or supervisory position, i.e., special education director, supervisor, etc.;

(c) A person certified by the state and under contract to the school board as a teacher, counselor, etc.;

(d) A person employed by the school board as a temporary substitute for administrative, supervisory, or instructional personnel for the period of his/her performance as a substitute; and

(e) A person employed by or under contract to the school board to perform a special task such as a secretary, a clerk, the school board attorney, or auditor, in connection with the performance of his/her functions as an employee or contractor.

III. Student and Parent Rights

Student and parent rights to the privacy of education records shall be assured by the participating agency, as a condition for the receipt of P.L. 94-142 funds. A policy to preserve these rights must be established.

Notice regarding these rights should define circumstances that pertain to the exercise of these rights. Parents or eligible students may waive these rights but may not be so required.

A. Right to Access of Education Records

Participating agencies and other institutions involved in data collection, storage, and maintenance shall provide access rights to parent(s) and/or eligible student(s). Parents and/or eligible students should be allowed to inspect or review, upon request, all personally identifiable data collected, maintained, or used by the agency in relation to the education of students.

Inspection and Review

Participating agencies and other participating institutions shall comply with requests for inspection or review within 30 days and prior to any meetings regarding individualized education programs or hearings relating to the identification, evaluation and reevaluation or placement, and in no case more than 45 calendar days after requests have been made.

If agency policy provides for the maintenance of a student's record in several locations, the school principal (or other designated records custodian) may offer to collect copies of records or records themselves from locatins other than a student's school, so that they may be reviewed or inspected at one site. However, if parents or eligible students wish to inspect records where they are maintained, the school principal will make every effort to accommodate their wishes. The school principal (or records custodian) may contact parent(s) or eligible student to discuss how access will be arranged or effected.

Presumption of Authority

Participating agencies shall presume that the parent(s) has the authority to inspect and review records relating to their children unless otherwise advised by a court order that the parent(s) does not have the authority under applicable state law governing such matters as guardianship, separation, divorce, etc. An authorized representative of the parent or eligible student must also be allowed to inspect or review the records.

The State of Michigan Attorney General's opinion number 5027 states that "A board of education may not refuse to disclose the school records of a child to the child's divorced parent on the ground that the divorced parent does not have custody of the child."

Explanation and Interpretation

School districts and other participating agencies are likewise required to provide an explanation or interpretation of data in education records upon request of either parent or eligible student. Medical, psychological, and other such records that are usually written in technical terminology should be explained by corresponding professionals to enhance parents' understanding if necessary.

Copies

If such valid reasons as working hours, distance between location sites, or health prevent parent(s) or eligible student from personally inspecting or reviewing records, arrangements should be made by the agency to provide copies of the records(s).

Participating agencies shall make available, upon request or court order, copies of records if failure to provide these copies would effectively prevent the parent from exercising the right to inspect and review the records. A fee may be charged for copies of records which are made for parents or eligible student at no more than cost. Fees may not be charged to search for or retrieve information.

B. Right to Amend Education Records

Each participating agency or institution is required by law to establish a procedure regarding amendment of education records. All requests for records amendment shall be addressed to the agency's staff person responsible for the maintenance of education records.

Education records shall not be disposed of or destroyed if there is an outstanding request to inspect, review, or amend them.

These procedures may vary because of uniqueness of educational agencies. However, assurances for the following should be incorporated in procedures:

1. That an amendment be requested by parent(s) and/or eligible student if records seem to be inaccurate: the parent or student must identify the part of record that needed change and cite reasons to show that record is inaccurate, misleading, or in violation of student rights.

2. That an amendment be granted and effected (or not granted) within a 45-day period. The agency may comply with the request or it may decide not to comply. If it decides not to comply, the parent(s) or eligible student shall be notified of the decision and shall be advised of the right to a hearing to challenge the information which is believed to be inaccurate, misleading, and therefore, in violation of the student's rights. The parent(s) or eligible student shall advise the agency if a hearing to challenge the record is being instigated by them.

3. That in the event of a hearing, the agency advise the parent(s) or eligible student, reasonably in advance, of the date, place, and time of the hearing.

4. That the hearing be conducted by a hearing officer who is a disinterested party. The hearing officer may be an official of the educational agency.

5. That during the hearing process, the parent(s) or eligible student be afforded a full and fair opportunity to present evidence relevant to the issues raised in the original request to amend student education records. The parent or eligible student may be assisted by other individuals (including a legal counselor).

6. That the participating agency prepare a written decision based solely on the evidence presented at the hearing. The written decision must include a summary of the evidence presented and the reasons for the decision.

If the decision is to the effect that the challenged information is not inaccurate, not misleading, or not in violation of the student's rights, the agency must notify the parent or eligible student of the right to include in the records a statement regarding the challenged information and/or a statement setting forth reasons for disagreeing with the decision.

If the decision is to the effect that the challenged information is indeed inaccurate, misleading, or in violation of the student's rights, the records shall be amended accordingly and the agency shall notify the parent or eligible student, in writing, that all existing copies of the records kept in various locations within the school agency have been so amended.

Any explanation placed in the records of the student shall be considered as part of the records and maintained as such as long as the record or contested portion is maintained by the agency. If the student's records or the contested portion is disclosed by the agency to any party, the explanation inherent thereto shall likewise be disclosed.

C. Right to Control Disclosure of Education Records

As a condition of receipt of federal funds, each participating agency or institution shall establish a policy to assure that education records are protected against indiscriminate disclosure. Parents and eligible students should be apprised of specific instances where their consent to the disclosure of certain records is not necessary.

The participating agency may wish to exercise the option to disclose information contained in a student's education records without the prior written consent of the parent(s) or eligible student. In this case, the agency shall so indicate its intent in relating policies and likewise list specific situations and conditions for such disclosure, together with corresponding procedures. These procedures may be disseminated with other procedures on records confidentiality. Legislation provides that the following persons and/or agencies, functioning within corresponding functions, should be accorded qualified access to education records without the prior written consent of the parent(s) or eligible students:

1. School officials defined in Section II. (C) 3 of this chapter;
2. Officials of another school or school system in which the student seeks or intends to enroll, provided that school policy so includes such provisio with the following qualifiers: (a) that a reasonable attempt to notify parent(s) or eligible student at last known address had been made; (b) that transfer of records is initiated by parent(s) or eligible student at the sending agency; (c) that agency provides parent(s) or eligible student a copy of disclosed records upon request; and (d) that agency provides parent or eligible student the opportunity for a hearing, if so requested;
3. Federal or state officials in connection with audit and evaluation of federally-funded programs. These include the authorized representatives of the following: the Comptroller General of the United States; and Secretary of the Department of Education; the Commissioner, the Director of the National Institute of Education, the Assistant Secretary of Education; or State Educational Authorities;
4. Officials of government agencies on financial aid in connection with determining eligibility or extent of aid, and in enforcing terms or conditions for collection, if necessary;
5. Organizations conducting studies for purposes of developing, validating, or administering predictive tests, student programs, accreditation, and improving instruction. Provisions should be established to assure that studies are conducted in such a manner as to prevent the personal identification of students and their parents by individuals other than representatives of these organizations and that information shall be destroyed when no longer needed in the conduct of the study. Organizations shall include federal and state or local agencies and independent organizations;

6. Officials of relating health and safety organizations in case of emergency; and

7. Officials of the court to comply with judicial order or lawfully issued subpoena. The agency shall make a reasonable effort to notify the parent(s) or eligible student of the order or subpoena in advance of compliance.

Use of Disclosed Records

The agency policy on disclosure shall require that information released be utilized only for purposes for which they are specifically intended. Limits to disclosure of education records may not preclude school employees from exhibiting student exemplary papers such as works of art, class examination results, and results of other class activities such as expository, poetry, or narrative writing, or from publicising student achievement through honor rolls, etc. if it is within the approved policy of the school agency.

Disclosure of Directory Information

Information for disclosure with or without prior consent of parent or eligible student shall be specified, together with corresponding intended use for each. If directory information or other forms of personally identifiable data are subject to release without prior consent, these should be specified in agency policies to assure that parents or eligible students are aware of procedural circumstances. However, a parent has the right to refuse to allow the agency to designate any or certain information as directory information on a particular student. If the parent does refuse, the school agency shall not publish the information nor disclose it as directory information, as long as the parent(s) or eligible student advises the agency within a reasonable period of time.

Record on Disclosures

Records on instances of disclosure of education records shall be maintained and kept on file with corresponding student records as long as these are maintained and utilized by the agencies. These records shall specify the following:

1. The parties who have requested or obtained personally identifiable information from the education records of the student; i.e., a list shall be developed and attached to the student records and shall be kept updated;

2. the legitimate interests these parties had in requesting or obtaining information;

3. dates person(s) or agency(s) made requests; and

4. indication of grant or denial of ruquest and corresponding reasons.

The record on disclosures shall not necessarily include requests from parents or eligible students or from school and other officials specified in C. (a) through (g) of this document. The record may be subjected to the inspection of the following: parent or eligible student; school official(s) responsible for the custody of the records; and other officials for purposes of auditing the record-keeping procedures of the school agency or institution.

D. Right to Destruction of Education Records

Education records are collected, compiled, and maintained by educational agencies with the use of public funds. For school agencies receiving P.L. 94-142 funds, the Department of Education contends that these records are records of the educational agencies maintained primarily to assist them in providing appropriate programs and services to students enrolled in their schools. When the agencies decide that education records are no longer needed to provide educational programs or services because the student has either graduated or left school, parents or eligible students shall be so notified and shall likewise be informed that records must be destroyed upon their request.

Notice of Right to Destruct

Parent(s) or eligible students shall be provided with a relevant notice regarding their right to request destruction of records. The educational agency may specify criteria that shall determine when records are no longer necessary. These may include, for handicapped students, such events as graduation from school, 26th birthday, or other such means of terminating enrollment as the conduct of the IEPC process and its decision to terminate provision of special education and related services.

The notice regarding right to destruction of records shall be provided upon graduation, upon reaching age 26 or during IEPC-IEP meetings for handicapped students, and other times as decided by the school agency and as specified in relating policies.

Legislation does not preclude maintenance of some parts of education records without time limitation. These may include but not be limited to student's name, address, phone number, grades, attendance records, classes attended, grade level(s) completed and year(s) completed and other such records deemed necessary for maintenance by the school agencies, with the knowledge of parent(s) or eligible students. Parents of students or eligible students on whom records are collected and maintained shall likewise be informed of possible needs of these records for such future purposes as social security benefits, court litigation, etc.

The agency policy on education records shall indicate that these records need to be maintained as long as the student is enrolled in the school.

CHAPTER XVIII. PUBLIC NOTICE AND OPPORTUNITY FOR COMMENT

The Michigan Department of Education conducted three regional hearings to solicit public opinion regarding proposed amendments to the Special Education Annual Program Plan previously approved for a three-year cycle by the Office of Special Education and Rehabilitation Services--United States Department of Education (1980-81, 1981-82, and 1982-83). Changes in priorities necessitate corresponding changes in the proposed spending plan for Fiscal Year 1981-82. Press releases, paid notices in area papers, posters, and relating memoranda were issued to the field to assure the awareness and participation of individuals involved in or concerned with the education of handicapped children in the state. Copies of these documents are attached to this chapter in chronological order.

Prior to final review and endorsement by the Michigan State Board of Education, the draft of the plan has also been presented to the State Special Education Advisory Committee for further discussion and comment. Testimony from this session was incorporated with those from the field. The following is a summary of all comments, together with specific actions taken and corresponding section and page references.

Summary of Public Testimony

Specific Areas of Concern on Draft of Plan	Chapter (Page)	SESA Action on Final Draft
1. Related...or therapy required should be rewritten to read...or training required.	II-#2 (24)	Rewritten, as suggested.
2. Revision of section to read: will be provided...after certification by licensed physician, to be consistent with R340.1746.	II	Revised, as suggested.
3. Articulation of policies/agreements with DSS and DMH to insure that requirements of law are met.	II (24)	Documents attached to APP as Appendix G.
4. Deletion of #8, statement on additional diagnostic services.	II (25)	This section is required by R340.1733(1), Appendix B.
5. Revision of section to reflect that additional diagnostic services...shall be borne by the handicapped person's district of residence, to be consistent with R340.1733(1).	II (25)	Revised, as suggested.

	Specific Areas of Concern on Draft of Plan	Chapter (Page)	SESA Action on Final Draft
6.	Statement regarding availability of FAPE since 1974 is not true. The ARC had to sue for provision of services to residents of institutions in 1975.	II (26)	SEA Monitoring procedures have since been restructured to assure the availability of FAPE in all educational agencies in the State.
7.	Addition of R340.1733(m) to more fully reflect application of FAPE requirement to all public agencies.	II	Already incorporated as Item number 4 (Chapter VII, page 48
8.	Adult Basic Education is not actually available to provide handicapped students with FAPE nor to develop their maximum potentials.	II	Legislation limits SEA special education responsibility to age 25. ABE is anticipated to maintain continuum of services afte age 25.
9.	Need for adequate interface between SESA and IHE to assure availability of needed personnel to meet full educational opportunity goal.	III	Chart 7 illustrates the interface. (Chapter IX, page 62).
10.	Inclusion of additional 3% to flowthrough funds would give school districts more flexibility for personnel development activities.	IV (40)	Proposed Annual Program Plan already includes provision.
11.	Comprehensive program audit of all funds used for state-initiated projects would insure accountability.	IV	Accountability is insured by monitoring of programs and relating audit checks by SESA and Department Services.
12.	Concerns on non-use of funds for state staff with compliance functions.	IV	Portion of P.L. 94-142 funds pays for SEA compliance staff. (Chapter XVI, page 90).
13.	Termination of all research, demonstration, and model projects (B-5, a to u).	IV	A number of proposed projects have been excluded/terminated as suggested.
14.	Inclusion of all inservice funds with flowthrough monies to school districts. Present economic conditions pose threat to direct services to students; hence, need for caution in use of funds.	IV	Except for $50,000 for the conduct of necessary workshops/committee work, all funds initially slated for personnel development have been included with anticipated flowthrough funds to school agencies.

Specific Areas of Concern on Draft of Plan	Chapter (Page)	SESA Action on Final Draft
15. Increase of flowthrough funds to 83% eliminates school district incentives for change and creativity.	IV	Increase of flowthrough funds is anticipated to ease school district current fiscal constraints and maintain current levels of programs and services to handicapped.
16. Exclusion of all new projects from funding allocation; completion of those already started; increase of flowthrough to schools.	IV	Some projects excluded and flowthrough funds increased to almost 87% of total P.L. 94-142 funds.
17. Maintenance of same funds distribution formula to uphold philosophy of equal opportunity.	IV	Formula is maintained, as approved by both SBE and OSERS for FAPP 1981.
18. Critical review of all state initiated projects in light of state's dire economic situation.	IV (39)	SEA has established procedures for state-initiated projects.
19. Revision of reimbursement priorities to enable LEA to adequately operate special education programs without depleting general education budgets. Increase of flowthrough to meet rising costs.	IV	Flowthrough funds are increased to 87%.
20. Program/service mandates for special education without adequate corresponding funds deprive regular education children of enrichment programs.	IV	See preceding SESA action.
21. Elimination of research grants and increase of flowthrough allocation to school districts.	IV	A number of research grants eliminated and flowthrough funds increased to 87%.
22. Review of projects for FY 1980-81 (c, e, f, g, h, j) in light of current economic crunch.	IV	A corresponding review will be conducted by SESA.
23. Maintenance of federal funding for Child Find activities.	IV	Child Find activities in school district shall be maintained as detailed in Chapter IV.

Specific Areas of Concern on Draft of Plan	Chapter (Page)	SESA Action on Final Draft
24. Elimination of funding for all state-initiated projects, particularly Project Find.	IV	A study of Project Find shall be done to assure more effective conduct of activities. Funding will be maintained until more viable alternative is established as coordinated child identification is required by P.L. 94-142.
25. Elimination of Project Find. Half million dollars have been spent to date. Child identification activities are limited and methods are ineffective.	IV	See preceding SESA action.
26. Elimination of Project Find and inclusion of child identification in CPMDC role with increased funds.	IV	See action for number 24.
27. Need for monitoring and analysis of Project Find. Activities are not comprehensive enough.	IV (40-41)	Project parameters shall be reviewed and possible revisions shall include more comprehensive monitoring and evaluation.
28. Increase of funding for CPMDC to minimum of $30,000 per ISD.	IV (42)	SESA decision is maintenance of current funding level.
29. Need for guidelines regarding role of CPMDC.	IV	The role of CPMDC is fully explained. (Chapter III, page 19).
30. Maintenance of funding for coordinators of Planning, Monitoring and Data Collection.	IV	Project is maintained as suggeste
31. Inclusion of CPMDC allocation with flowthrough funds to enable school districts to use funds for priorities that may be more critical to their needs.	IV	SESA action is maintenance of initially proposed funding for the coordination of Planning, Monitoring and Data Collection.
32. Termination of funding for CPMDC and use of funds for direct services.	IV	See action for preceding concern.
33. Termination of funding for SELMCs; school districts must maintain them if necessary to their operations.	IV (42)	Funding decreased. $1,000,000 will be added to flowthrough fund to school districts.

Specific Areas of Concern on Draft of Plan	Chapter (Page)	SESA Action on Final Draft
34. Continuation of SELMC funding with emphasis on inservice on use of media/materials for parents, teachers.	IV	SESA maintaines that current network of available materials is adequate to meet the needs of parents, teachers and handicapped students.
35. Deletion of funding for SELMCs since media/materials services do not contribute to attainment of special education goals.	IV	Funding decreased.
36. Maintenance of federal funding for SELMCs.	IV	Funding decreased. See concerns numbers 33 through 35.
37. Expenditure of $1,000,000 for SELMCs when direct services to children are currently being curtailed by the state economic crisis borders on irresponsibility.	IV	Proposed funding for SELMCs decreased as suggested.
38. Increase of funds for regional programs in view of inclusion of DOC handicapped students in target populations to $300,000.	IV (42)	SESA action is maintenance of originally proposed allocation in view of current state economic crisis.
39. Deletion of funding for regional projects. Areas of study have not been clearly articulated in the past and funds have never been totally encumbered.	IV (42)	Section is rewritten to clarify purpose of allocation.
40. SCADS is a viable project, so should be maintained as priority for funds.	IV (44)	Project is maintained, as suggested.
41. Continuation of funding for preprimary project.	IV	Project excluded for funding in view of increase of flowthrough funds to school districts for direct services.
42. Maintenance of project on evaluation of monitoring activities to assure validity and accountability; use of outside contractor to assess validity; increase allocation to $50,000.	IV (46)	Project is maintained at current level of funding.

Specific Areas of Concern on Draft of Plan	Chapter (Page)	SESA Action on Final Draft
43. Maintenance, with increased funding, for Center for Aids and Equipment.	IV (46)	Project is maintained at current level of funding.
44. Inclusion of TMI/SMI/SXI evaluation project.	IV (46)	Project is excluded for funding in view of SESA decision to increase flowthrough funds.
45. Increase of funding for study of migrant/bilingual handicapped to $40,000.	IV (46)	SESA decision is maintenance of originally proposed funding level
46. Change of project Music for the Handicapped to Arts for the Handicapped.	IV (47)	SESA action is maintenance of proposed project focus. Other branches of art may be areas for future consideration.
47. Endorsement of Project on Music for the Handicapped.	IV (47)	Project is included for funding.
48. Allocation of $75,000 for project on psychologists is valid if costs include tuition for training.	IV (47)	Project deleted until such time as state fiscal situation is improved.
49. Maintenance of federal funding for Special Olympics.	IV	Funding terminated in view of financial crisis.
50. Inclusion of project on Barrier Free Designs for $60,000.	IV	Funding terminated in view of financial crisis.
51. Provision of funding to PACs at the ISD level of at least $3,500 per ISD to help defray expenses incurred in attending meetings, etc.	IV	Current fiscal constraints preclude inclusion of new funds allocations at this time.
52. Allocation of $20,000 for position of SEAC executive secretary to take care of mechanics of meetings, etc.	IV	See preceding action.
53. Need for more detailed explanation of II-B (5-p).	IV	See action for number 51.
54. Provision of funds for MLRC testing.	IV (48)	Funds provided, as suggested.
55. Endorsement of inservice funds for CSPD.	IV	$50,000 is allocated for CSPD.

Specific Areas of Concern on Draft of Plan	Chapter (Page)	SESA Action on Final Draft
56. Endorsement of inservice project for diagnostic treatment personnel for hearing impaired with behavioral problems.	IV	Proposed project is maintained. (Chapter IX, page 67).
57. Expansion of II-B (5-g) to include criteria for teachers of hard of hearing.	IV	Project focus changed to evaluation of Special Education in Michigan.
58. Use of CSPD monies ($200,000) for direct services to students.	IV	Initial proposed allocation is decreased to $50,000.
59. Maintenance of CSPD funds as resources for inservice, professional materials, resource books.	IV	CSPD funds are primarily for the conduct of personnel development.
60. Change of...participant shall include the child, to read...shall include the student...	VI (56)	Modified, as suggested.
61. Addition of following phrase to facilitate parent-school agreement: the conference shall...during the school working day.	VI (56)	Suggested addition would not be consistent with 300.345 and R340.1721(c).
62. Revision of #5 to conform to R340.1721(b).	VI (56)	Revised as suggested, to conform to R340.1721(b).
63. Short term performance objectives should be deleted from IEP content requirements since lesson plans are more productive and allow for more flexibility.	VI (58)	This is required by both R340.1721(e) and 300.346.
64. Revision of...during the period they are in effect, to read...for a minimum of three years.	VI (60)	Revised, as suggested.
65. New IEPs should not have to be written annually, just reviewed or revised.	VI	IEPs are reviewed at least once every 12 months, as required by R340.1722c.

	Specific Areas of Concern on Draft of Plan	Chapter (Page)	SESA Action on Final Draft
66.	SESA policies/procedures are designed to assist administrators, rather than instructional personnel who need assistance in providing maximum services to students. The IEP is a management tool and should not be made the responsibility of the teachers.	VI	See Chapter V for clarification. IEP rules conform to both state and federal legislation.
67.	Revision of R340.1721(c)(2) because it tends to provide option for noncompliance.	VI	Concern not within the purview of APP.
68.	Need for more stringent monitoring to assure that school districts do adhere to the assurance of the following parents' rights: right to a verbatim record of the hearing & to written findings of fact. One parent has been charged $700 for a copy of a verbatim record.	VII (64)	Restructured Monitoring Standards are anticipated to assure compliance.
69.	Revision of Chart 5 to conform to Administrative Rules.	VII (68)	Revised, as suggested.
70.	Recommendation of the following prior to placement in LRE: (a) inservice and appropriate information for receiving personnel; (b) recognition of students' emotional, social, and physical well-being, in addition to potential cognitive benefits; (c) assurance of availability of adaptive resources and information regarding proper utilization; (d) guarantee of student health and safety in placement; (e) guarantee that school personnel are free of liability which requires them to perform new or uneducational tasks; (f) recognition of children's potential to perform within normal expected range of achievement within placement; (g) availability of transitional programs; (cont...)	VIII	SESA is in process of developing program suggestions for better implementation of Special Education rules and regulations.

	Specific Areas of Concern on Draft of Plan	Chapter (Page)	SESA Action on Final Draft
70. cont.	(h) availability of release time for teachers to consult with support personnel; and (i) assurance that regular class sizes are not increased if special education students are assigned to them.	VIII	
71.	Objection to statement that ISD plans provide for the availability of continuum of services because there is not complete access to DMH facilities, particularly for emotionally impaired.	VIII (70)	SESA has provided for more thorough review of ISD plans to insure the availability of appropriate programs and services.
72.	Validity of criteria in reviewing ISD plans to assure availability of continuum of services is not established because most planning is based on minimums as specified in state rules and regulations. This is opposed to the development of maximum potentials or meeting the handicapped unique needs as required under Public Law 94-142.	VIII	See preceding SESA action.
73.	Inclusion of DSS/MDE agreement in document.	VIII	Copy of agreement included as Appendix G.
74.	Deletion of #6 because there is no justification for placement in separate facilities except appropriateness of IEPs.	VIII	SESA action is inclusion of item as previously approved by OSERS.
75.	Deletion of reference to MEA complaint. Otherwise complaints of problems from other groups should also be included.	VIII (75a)	A survey will be conducted to identify new problems after the APP's 3-year cycle.
76.	Concern of apparent disproportionate numbers of minorities diagnosed as handicapped. Questions relating to evaluation procedures must be dealt with in the APP. It should also include an analysis of incidence rates in all disabilities, by race, geographical location, and socio-economic levels.	IX (76)	A forthcoming publication on Special Education statistics contains relating information. It will be disseminated by June, 1981.

Specific Areas of Concern on Draft of Plan	Chapter (Page)	SESA Action on Final Draft
77. Monitoring activities should include review of practices regarding eligibility determination, particularly for the emotionally impaired, autistic, and learning disabled.	IX (76)	SESA monitoring system has been restructured to assure comprehensive coverage.
78. Section on Educational Planning for Children Enrolled in Private Schools (V, p. 36) seems to conflict with paragraph 5 of p. 76.	XI (94)	Section is further discussed and reference is made to provision of Michigan School Code of 1976.
79. What are participating districts and subgrants?	XI (95)	Participating districts are scho districts that submit project ap plications for funds. Subgrants are relating grant awards from P.L. 94-142 entitlement. (100b- through 100b-622, EDGAR)
80. Reference to use of P.L. 94-142 funds for evaluation needs clarification.	XV (101)	Clarification added, as suggeste (Chapter XIV, page 79).
81. Data collection on enforcement of laws must be done without increasing paperwork for classroom teachers.	XVI	Involvement of classroom teacher in data collection is very minimal.
82. Need for more technical assistance to teachers, particularly regarding policies/laws interpretation.	XVI	CSPD (Chapter IX) discusses this more fully.
83. Need for better methods of monitoring ISDs and enforcement of sanctions for noncompliance (i.e., Allegan ISD findings).	XVI	See SESA action for comment #68.
84. Comprehensive analysis of activities on monitoring to include deviation request, with corresponding numbers of approvals and/or denials.	XVI	SESA staff shall initiate analys of data on deviation requests an relating denials/approvals. A r lating report will be prepared.
85. Modification of structure of SEAC to allow 50% consumers/50% providers balance of membership.	XVI (107)	Concern not within the purview o the FAPP.
66. Compliments staff on completion of excellent document, in view of apparent complexity of blending all rules, laws, etc., to project a state plan.		SESA shall continue to provide t same quality of services to the handicapped student population i the State.

Availability of Public Testimony for Review

Copies of all written comments, including taped oral testimony, are kept on file and available for public review for one year from the date of this document. These comments, including the initial draft of this Plan, may be reviewed between 8:00 a.m. to 5:00 p.m., Mondays through Fridays, except holidays, at the office of the Special Education Service Area, Michigan Department of Education, Davenport Building, Lansing, Michigan.

Procedures for Dissemination of Approved Plan

Amendments to the Annual Program Plan for Fiscal Years 1981, 1982, and 1983, after its approval by the United States Commissioner of Education, is made public through the following procedures:

1. A statement regarding its availability for review and referral is circulated through news releases and relating bulletins.

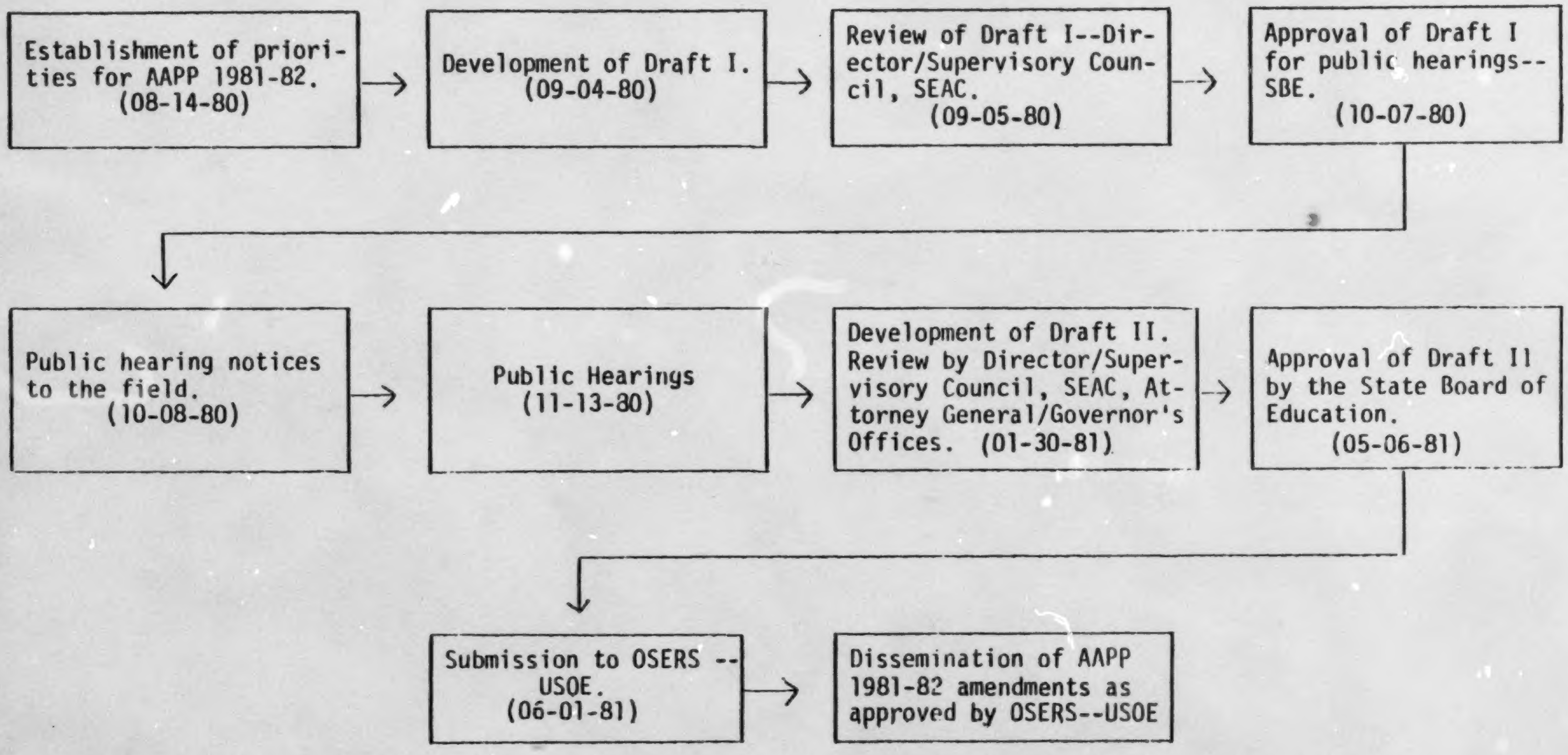
2. Copies of the Annual Program Plan are available for review and referral at the following locations: Offices of the 58 Intermediate School District Superintendents, the 22 Special Education Learning Materials Centers, the Higher Education Institutions in the state with curricular offerings in Special Education teacher-training, and the various departments of the State Government. They are also available on loan from the State Library and the office of the State Director of Special Education in Lansing.

The availability of the plan for review and referral will assure that every concerned citizen is provided the opportunity to more fully understand and participate in the education of handicapped children in the state.

Chart 9 details the timetable for the development and submission of the amendments to the United States Department of Education, Office of Special Education and Rehabilitation Services, and the dissemination of the Amended Plan after approval.

CHART 9

DEVELOPMENT, SUBMISSION, DISSEMINATION
AMENDED ANNUAL PROGRAM PLAN
FY 1981-82


Establishment of priorities for AAPP 1981-82. (08-14-80)
Development of Draft I. (09-04-80)
Review of Draft I--Director/Supervisory Council, SEAC. (09-05-80)
Approval of Draft I for public hearings--SBE. (10-07-80)
Public hearing notices to the field. (10-08-80)
Public Hearings (11-13-80)
Development of Draft II. Review by Director/Supervisory Council, SEAC, Attorney General/Governor's Offices. (01-30-81)
Approval of Draft II by the State Board of Education. (05-06-81)
Submission to OSERS -- USOE. (06-01-81)
Dissemination of AAPP 1981-82 amendments as approved by OSERS--USOE

AAPP -- Amended Annual Program Plan
SEAC -- Special Education Advisory Council
USOE -- United States Office of Education

SBE -- State Board of Education
OSERS -- Office of Special Education and Rehabilitation Services

ATTACHMENTS

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STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
Lansing, Michigan 48909

PHILLIP E. RUNKEL
Superintendent of
Public Instruction

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DR. EDMUND F. VANDETTI

Governor
WILLIAM G. MILLIKEN
Ex-Officio

August 8, 1980

MEMORANDUM

TO: ISD Superintendents, Directors of Special Education, University Personnel, Parents and Others Interested in the Education of the Handicapped

MOB

FROM: Murray O. Batten, Director
Special Education Service Area

SUBJECT: Priorities for Inclusion in Federal Amended Annual Program Plan for 1981-82

The revision of the Amended Annual Program Plan for FY 1981-83 has been initiated. The primary purpose of the revision is to establish new or reaffirm identified priorities for funding so as to assure that these correspond to current needs of handicapped students in the state. Our target date for submission to the Bureau of Education for the Handicapped is March 15, 1981. This is anticipated to provide ample time for the review and approval of the amendments to the Plan.

For your convenience, the attached sheets include priorities detailed in the APP for 1981-83, excluding those specified to terminate at the end of FY 1980-81, and priorities recommended by SESA staff. The brief summaries for the priorities shall apprise you of their status as of date. On the survey checklist, please indicate your reactions accordingly so that priority items will either be reaffirmed or deleted. On Section C, please write in items you consider to be of high priority.

Our timeframe is rather tight, considering the draft's submission to the State Board of Education for review and the subsequent regional public hearings that have to be conducted in accordance with both federal and state relating legislation. It is therefore imperative that you return the attached checklist on or before September 1, 1980 to the Special Education Service Area, P.O. Box 30008, Lansing, Michigan 48909; Attention: Dr. Lydia A. Beltran. Be assured that your concerns shall be reviewed and considered for possible inclusion in the priorities for the Ammended Annual Program Plan for 1981-82.

We appreciate your continued support and cooperation in the education of handicapped children in Michigan.

MOB:LAB:jk
Attachment

STATE OF MICHIGAN

DEPARTMENT OF EDUCATION

Lansing, Michigan 48909

PHILLIP E. RUNKEL
Superintendent
of Public Instruction

STATE BOARD OF EDUCATION
(with years when terms expire)
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BARBARA ROBERTS MASON
1985
DR. GUMECINDO SALAS
JOHN WATANEN, JR.
1987
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ANNETTA MILLER
1989
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DR. EDMUND F. VANDETTE
Ex-Officio
GOV. WILLIAM G. MILLIKEN

October 10, 1980

MEMORANDUM TO: Local and Intermediate Superintendents, and Persons Interested in the Education of Handicapped Children

FROM: Phillip E. Runkel PR

SUBJECT: Notice of Public Hearings on the State Plan for the Delivery of Special Education Programs and Services for Fiscal Year 1981-82

On October 7, 1980, the State Board of Education authorized the Department of Education to conduct Public Hearings on the development of priorities for the proposed amendments to the State Plan for Special Education for the 1981-82 school year. This action was taken in order to comply with Public Law 94-142, the Education for all Handicapped Children Act. This Act requires the state to hold public hearings to assure that parents, educators, and other persons interested in the education of handicapped persons, have the opportunity to react to the Federal Annual Program Plan for serving handicapped children.

The purpose of this memorandum is to solicit your comments and ask for your help in notifying the public about the Plan and the proposed hearings. Enclosed is a copy of the Plan, copies of the Public Notice, and a format designed to help citizens provide written comment on the Plan. Would you please post the Hearing Notice? I would also ask that you include an informational item in any newsletter or communication you have to your staff, to make them aware that the State Board of Education is considering modifications on the priorities for expenditure of funds under Chapter IV, and the priorities for development and training under Chapter X. Please make a copy of the Plan available at your office for public review through November 30, 1980.

Your cooperation in helping make citizens aware of these hearings and the proposed changes in the Plan is gratefully appreciated.

cc: Administrative Secretary
State Board of Education

STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
Lansing, Michigan 48909

PHILLIP E. RUNKEL
Superintendent of
Public Instruction

STATE BOARD OF EDUCATION
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Ex-Officio

October 10, 1980

NOTICE

All Persons Interested in Education of Handicapped Children

Public Hearings on Proposed State Plan for Special Education, FY 1981-82

The State Board of Education is pleased to announce that hearings will be held on the proposed priorities for the State Plan for the Delivery of Special Education and Related Services to the Handicapped. The hearings will be conducted by the Department of Education - Special Education Services. The Plan has been developed in accordance with P.L. 94-142, the Education for all Handicapped Children Act of 1975, Title VI - Part B, and P.A. 198, the Michigan Mandatory Special Education Act of 1971. The Plan defines State Board policies regarding the education of handicapped children and youth, including relating priorities for the expenditure of federal funds for fiscal year 1981-82.

The purpose of the hearing is to allow citizens the opportunity to make comments in regard to proposed changes in the Plan. Changes in the priority for expenditure of federal funds are being recommended in Chapter IV, and changes in the development [illegible]d training activities are being recommended in Chapter X. Copies of the Plan should be available for public review at the office of the superintendent of the intermediate school districts throughout the state. The proposed Plan may also be reviewed from 7:30 a.m. to 5:00 p.m. at the office of Special Education Services, Michigan Department of Education, 4th Floor Davenport Building, corner Capital and Ottawa Streets, Lansing, Michigan. Copies of the Plan will also be available for review at the Public Hearings.

Following is the schedule of the Public Hearings:

DATE-TIME	PLACE
Thursday, November 13, 1980 1:00 p.m.	Gaylord Gaylord High School 240 East Fourth Street
Monday, November 17, 1980 10:00 a.m.	Pontiac Oakland ISD Kiva 2100 Pontiac Lake Road
Thursday, November 20, 1980 10:00 a.m.	Grand Rapids Kent ISD Conference Room 2650 East Beltline, S.E.

[illegible] is not necessary to attend the public hearings in order to recommend changes on the Plan. The Department of Education will accept written comments on the Plan which are received on or before November 30, 1980. Written comments should be directed to Dr. Lydia A. Beltran, Special Education Services, Michigan Department of Education, P.O. Box 30008, Lansing, Michigan 48909.

HEARINGS ON STATE PLAN FOR SPECIAL EDUCATION
FY 1982

Tentative Agenda

Introductions

Overview of State Plan Priorities

Special Education Service Area Staff — MDE

General Comments, Clarification of Specific Items

Parent Groups
Advocate Organizations
College/University Groups
Intermediate School Districts/Local Education Agencies
Special Education Service Area Staff -- MDE

Documented Testimony

On Tape, On Paper

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PROCEDURES FOR PUBLIC HEARINGS

The Michigan Department of Education is conducting these hearings under authority granted by the State Board of Education on October 8, 1980. The proposed Plan is developed pursuant to the regulations for implementing Public Law 94-142 as published in the Federal Register of August 23, 1977. The hearings are specifically required under Section 300.280 through Section 300.284 of the Federal Regulations.

Hearing Procedures

A. Registration

All persons attending the hearings are requested to register on forms provided. The purpose of this registration is to identify, for the Department of Education, the number of persons in attendance and the groups that these persons represent, if any.

B. Public Testimony

Any person in attendance at the hearings is free to provide public testimony on any item contained in the Plan or to make any recommendations for modifications of the document. All concerns expressed by participants will be taken under advisement by the Department of Education in the development of the final draft for submission to the State Board of Education and the Bureau of Education for the Handicapped, U.S. Department of Education.

C. Procedure for Giving Verbal Testimony

Testimony will be solicited for each chapter of the Plan. Participants may testify once on each priority item or chapter. Persons testifying are requested to give their name and the organization they are representing, if any. Testimony will be limited to a maximum of three minutes per person per priority item or chapter. The moderator will signal the person giving testimony when they have 30 seconds left and will interrupt the participant at the end of three minutes.

The Department will use a tape recorder to record all oral testimony. Persons wishing to record testimony are requested to speak clearly into the microphone to assure that the Department gets a clear record of all comments.

Maintenance of Testimony as Public Record

The Department of Education is required to maintain public records of the testimony for the time the Plan is in effect. Verbal testimony, together with those written on attached write-in forms, will be reviewed by Department staff and may be summarized in writing prior to completion of the final document. These may be reviewed at the office of the Michigan Department of Education, Fourth Floor, Davenport Building, corner of Capitol and Ottawa, Lansing, Michigan, 8:00 a.m. to 5:00 p.m., Monday through Friday, except state holidays.

PUBLIC HEARINGS

State Plan for Special Education
FY 1981-82

e of Hearing______________________________ Date__________

____________________ Educator___ Parent___ Other__________

cy/Organization represented______________________________

ou wish to testify? Yes____ No____

the space below to indicate your concerns or questions. Please specify item(s) he Plan that you are referring to. This form can be submitted at the time of hearings. The department will also accept written comments received on or re November 30, 1980. These should be directed to: Special Education Services, rtment of Education, P. O. Box 30008, Lansing, Michigan 48909, Attention: Lydia A. Beltran.

The Grand Rapids Press, Wednesday, October 15, 1980

October 10, 1980

Notice of Public Hearings on Proposed State Plan for Special Education, FY 1981-82

The State Board of Education has announced that hearings will be held on proposed priorities for the state plan for the delivery of special education and related services to the handicapped. The hearings will be conducted by the Department of Education - Special Education Services. The plan has been developed in accordance with P.L. 94-142, the Education for all Handicapped Children Act of 1975, Title VI - Part B, and P.A. 198, the Michigan Mandatory Special Education Act of 1971. It defines State Board policies on the education of handicapped children and youth, including relating priorities for the expenditure of federal funds for fiscal year 1981-82.

The purpose of the hearings is to allow citizens to make comments in regard to proposed changes in the plan. Changes in the priority for expenditure of federal funds are being recommended in Chapter IV, and changes in the development and training activities are being recommended in Chapter X. Copies of the plan will be available at intermediate school district superintendent's offices throughout the state. The proposed plan also may be reviewed from 7:30 a.m. to 5:00 p.m. at the office of Special Education Services, Michigan Department of Education, 4th Floor Davenport Building, corner Capital and Ottawa Streets, Lansing, Michigan. Copies of the plan also will be available for review at the public hearings.

The schedule of the hearings:

-Nov. 13, 1980, 1:00 p.m., Gaylord High School, 240 E. Fourth Street, Gaylord.

-Nov. 17, 1980, 10:00 a.m., Oakland Intermediate School District, 2100 Pontiac Lake Rd., Pontiac.

-Nov. 20, 1980, 10:00 a.m., Kent Intermediate School District Conference Room, 2650 E. Beltline, S.E., Grand Rapids.

It is not necessary to attend the public hearings in order to recommend changes on the plan. The Department of Education will accept written comments on the plan which are received on or before November 30, 1980, to Dr. Lydia A. Beltran, Special Education Services, Michigan Department of Education, P.O. Box 30008, Lansing, Michigan 48909.

THE OAKLAND PRESS Wednesday, October 15, 1980

OCTOBER 15, 1980

NOTICE OF PUBLIC HEARINGS ON PROPOSED STATE PLAN FOR SPECIAL EDUCATION, FY 1981-82

The State Board of Education has announced that hearings will be held on proposed priorities for the state plan for the delivery of special education and related services to the handicapped. The hearings will be conducted by the Department of Education—Special Education Services. The plan has been developed in accordance with P.L. 94-142, the Education for all Handicapped Children Act of 1975, Title VI—Part B, and P.A. 198, the Michigan Mandatory Special Education Act of 1971. It defines State Board policies on the education of handicapped children and youth, including relating priorities for the expenditure of federal funds for fiscal year 1981-82.

The purpose of the hearings is to allow citizens to make comments in regard to proposed changes in the plan. Changes in the priority for expenditure of federal funds are being recommended in Chapter IV, and changes in the development and training activities are being recommended in Chapter X. Copies of the plan will be available at intermediate school district superintendent's offices throughout the state. The proposed plan also may be reviewed from 7:30 a.m. to 5:00 p.m. at the office of Special Education Services, Michigan Department of education, 4th Floor Davenport Building, corner Capital and Ottawa Streets, Lansing, Michigan. Copies of the plan also will be available for review at the public hearings.

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It is not necessary to attend the public hearings in order to recommend changes on the plan. The Department of Education will accept written comments on the plan which are received on or before November 30, 1980, to Dr. Lydia A. Beltran, Special Education Services, Michigan Department of Education, P.O. Box 30003, Lansing, Michigan 43909.

Thursday, October 16, 1980 HERALD TIMES

October 10, 1980

NOTICE OF PUBLIC HEARINGS ON PROPOSED STATE PLAN FOR SPECIAL EDUCATION

FY 1981-82

The State Board of Education has announced that hearings will be held on proposed priorities for the state plan for the delivery of special education and related services to the handicapped. The hearings will be conducted by the Department of Education - Special Education Services. The plan has been developed in accordance with P.L. 94-142, the Education for all Handicapped Children Act of 1975, Title VI - Part B, and P.A. 198, the Michigan Mandatory Special Education Act of 1971. It defines State Board policies on the education of handicapped children and youth, including relating priorities for the expenditure of federal funds for fiscal year 1981-82.

The purpose of the hearings is to allow citizens to make comments in regard to proposed changes in the plan. Changes in the priority for expenditure of federal funds are being recommended in Chapter IV, and changes in the development and training activities are being recommended in Chapter X. Copies of the plan will be available at the intermediate school district superintendent's offices throughout the state. The proposed plan also may be reviewed from 7:30 a.m. to 5:00 p.m. at the office of Special Education Services, Michigan Department of Education, 4th Floor Davenport Building, corner Capital and Ottawa Streets, Lansing, Michigan. Copies of the plan also will be available for review at the public hearings.

The schedule of the hearings:

— Nov. 13, 1980, 1:00 p.m., Gaylord High School, 240 E. Fourth Street, Gaylord.

— Nov. 17, 1980, 10:00 a.m., Oakland Intermediate School District, 2100 Pontiac Lake Rd , Pontiac.

—Nov. 20, 1980, 10:00 a.m., Kent Intermediate School District Conference Room, 2650 E. Beltline, S.E., Grand Rapids.

It is not necessary to attend the public hearings in order to recommend changes on the plan. The Department of Education will accept written comments on the plan which are received on or before November 30, 1980, by Dr. Lydia A. Beltran, Special Education Services, Michigan Department of Education, P.O. Box 30008, Lansing, Michigan 48909.

STATE AID ACT

THE STATE SCHOOL AID ACT FOR 1981-82

Act No. 94, P.A. 1979, as amended by Act No. 269
and Act No. 320 of 1980 and Act No. 36 of 1981

AN ACT to make appropriations to aid in the support of the public schools and the intermediate school districts of the state; to provide for the disbursement of the appropriations; to supplement the school aid fund by the levy and collection of certain taxes; to prescribe penalties; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

ARTICLE 1

Sec. 1. This act shall be known and may be cited as "the state school aid act of 1979".

Sec. 2. For the purposes of this act the words and phrases defined in sections 3 to 6 have the meanings ascribed to them in those sections.

Sec. 3. (1) "Board" means the governing body of a district.

(2) "Department" means the state department of education.

(3) "District" means a local school district established under part 2, 3, 4, 5, or 6 of the school code of 1976 or a local act school district.

(4) "District superintendent" means the superintendent of a district.

Sec. 4. (1) "Elementary pupil" means a pupil in membership in grades K to 8 in a district not maintaining classes above the eighth grade or in grades K to 6 in a district maintaining classes above the eighth grade.

(2) "Extended school year" means an educational program conducted by a district in which pupils must be enrolled but not necessarily in attendance on the pupil membership count day in an extended year program. The mandatory days of student instruction and prescribed clock hours shall be completed by each pupil not more than 365 calendar days after the pupil's first day of classes for the school year prescribed. The department shall prescribe pupil, personne and other reporting requirements for the educational program.

(3) "Fiscal year" means the state fiscal year which commences October 1 and continues through September 30.

(4) "High school pupil" means a pupil in membership in grades 7 to 12, except in a district not maintaining grades above the eighth grade.

Sec. 5. (1) "Intermediate board" means the governing body of an intermediate district.

(2) "Intermediate district" means an intermediate school district established under part 7 of the school code of 1976.

(3) "Intermediate superintendent" means the superintendent of an intermediate district.

Sec. 6. (1) "Membership", except as otherwise provided in sections 56 and 62, means the number of full-time equivalent pupils in grades K to 12 actually enrolled and in regular daily attendance on the pupil membership count day as determined by the number of pupils registered for attendance plus pupils received by transfer and minus pupils lost as defined by rules promulgated by the state board. In a district operating an extended school year program approved by the state board, a pupil enrolled, but not scheduled to be in regular daily attendance on the pupil membership count day, shall be counted. The department shall give a uniform interpretation of full-time and part-time memberships. The state board may provide a district with an adjustment of the district's membership count upon the showing of a substantial increase in membership due to the closing of a nonpublic school after the pupil membership count day.

(2) "Pupil" means a person in membership in a public school. A district must have the approval of the pupil's district of residence to count the pupil in membership, except approval by the pupil's district of residence shall not be required for those pupils who were enrolled and in regular daily attendance and remain enrolled and in regular daily attendance in the district other than their district of residence before April 1, 1981.

(3) "Pupil membership count day" of a district means:

(a) The fourth Friday following Labor day each school year.

(b) For a district maintaining school during the entire school year, the following days:

(i) Fourth Friday in July.

(ii) Fourth Friday in October.

(iii) Fourth Friday in January.

(iv) Fourth Friday in April.

(c) For the 1980-81 school year only, at the option of the district, either the second or the third Friday following the first Monday after either the start or resumption of pupil instruction. This subdivision shall expire September 30, 1981.

(4) "Rule" means a rule promulgated pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws.

(5) "The school code of 1976" means Act No. 451 of the Public Acts of 1976, as amended, being sections 380.1 to 380.1852 of the Michigan Compiled Laws.

(6) "School fiscal year" means a fiscal year which commences July 1 and continues through June 30.

(7) "State board" means the state board of education.

(8) "Tuition pupil" means a pupil of school age attending school in a district other than the pupil's district of residence.

Sec. 7. Costs for school operating purposes include all of the following expenditures from the general fund of a district or from the operating funds of an intermediate district:

(a) Expenditures for instruction and support services, including salaries and employee benefits of teachers and other employees, purchased services, textbooks, and other supplies and materials.

(b) Expenditures for furniture and equipment and for alterations necessary to maintain school facilities in a safe and sanitary condition.

(c) Expenditures for school lunch programs, bookstore operations, interscholastic athletics, community services, and cooperative education projects.

Sec. 9. The state board shall promulgate rules necessary to implement and administer this act. The rules which affect the distribution of a school aid program shall not be promulgated later than the third Friday of January of the year following legislative enactment of the program. The joint legislative committee on administrative rules shall report a violation of this section to the legislature and the governor.

Sec. 11. There is appropriated from the school aid fund established by section 11 of article 9 of the state constitution of 1963, for the fiscal year ending September 30, 1982, the sum necessary to fulfill the requirements of this act, and any deficiency is appropriated from the general fund by the legislature. The appropriation shall be allocated as provided in this act.

Sec. 12. (1) For the purpose of supplementing the school aid fund established by section 11 of article 9 of the state constitution of 1963, there is levied, in addition to the taxes imposed by law, an excise tax equivalent to 4% of the retail selling price of spirits, as defined in section 2 of Act No. 8 of the Public Acts of the Extra Session of 1933, as amended, being section 436.2 of the Michigan Compiled Laws, other than those containing an alcoholic content of less than 22%.

(2) The tax shall be collected by the liquor control commission at the time of sale by the commission. In the case of a sale to a licensee, the tax shall be computed on the retail selling price established by the commission without allowance of discount.

(3) Upon collection the liquor control commission shall deposit the entire proceeds in the state treasury to the credit of the school aid fund.

Sec. 13. The apportionments and limitations of the apportionments made under this act shall be made on the membership and number of teachers and other professionals approved by the superintendent of public instruction employed as of the pupil membership count day of each year, on the cost of pupil transportation for the preceding school year, and on the state equalized valuation and the operating millage of each district for the calendar year. Apportionments shall be made under this act for teachers and other personnel approved by the superintendent of public instruction in special education programs and services initiated after the pupil membership count day pursuant to section 53. In addition, a district maintaining school during the entire year, as provided in section 1561 of the school code of 1976, shall count memberships and teachers pursuant to rules promulgated by the state board.

Sec. 14. If the returns from an intermediate district or district upon which a statement of the amount to be disbursed or paid are defective, making it impracticable to ascertain the apportionment to be disbursed or paid, the department shall ascertain by the best evidence available the facts upon which the ratio and amount of the apportionment shall depend and make the apportionment accordingly.

Sec. 15. (1) If a district or intermediate district fails to receive its proper apportionment, the department, upon satisfactory proof that the district or intermediate district was entitled justly, shall apportion the deficiency in the next apportionment. If a district or intermediate district has received more than its proper apportionment, the department, upon satisfactory proof, shall deduct the excess in the next apportionment, except that a deduction due to an adjustment by the state tax commission in the equalized valuation of a district or intermediate district shall be made in the apportionment for the fiscal year following the fiscal year in which the state tax commission finalizes the valuation.

(2) The department shall not make a deduction in the 1978-79 school fiscal year for an overpayment made to a district for the 1977-78 school fiscal year if the overpayment was the result of a recomputation of part-time memberships and a reduction of more than 2% in the district's 1977-78 pupil membership, but shall instead deduct the overpayment in equal amounts from apportionments due the district in 1979-80, 1980-81, and 1981-82. This subsection shall expire September 30, 1982.

(3) A deduction due to an adjustment of the district's membership as a result of an audit conducted by the department upon those memberships shall be deducted from the district's apportionments over a 3-year period beginning in the fiscal year in which the adjustment is finalized.

(4) If a district received an overpayment in the 1980-81 school fiscal year as a result of the requirements of section 11A and certifies to the department that it is unable to repay the overpayment from operating funds available in the 1980-81 school fiscal year, the department shall deduct the overpayment from the apportionment due the district in the 1981-82 school fiscal year.

Sec. 16. Notwithstanding the allowance for pupils attending school in a district for tuition or transportation, or both, a district shall not receive a greater allowance than the actual amounts paid by the district. If a district receives in an apportionment more than was paid, the excess shall be deducted from the district's next apportionment.

Sec. 17. Not later than October 1, December 1, February 1, April 1, June 1, and August 1, the department shall prepare a statement of the amount to be distributed in the installment to the districts and intermediate districts and deliver the statement to the state treasurer. The portion of the district's or intermediate district's state fiscal year entitlement to be included in each installment shall be 20%, 19%, 17%, 16%, 15%, and 13% respectively. The state treasurer shall draw a warrant in favor of the treasurer of each district or intermediate district for the amount payable to the district or intermediate district according to the statement and deliver the warrant to the treasurer of each district or intermediate district. The amount distributed on August 1 shall be considered for state accounting purposes to be allocated for the months of August and September. Funds allocated to districts or intermediate districts shall be considered allocated for use within the district or intermediate district fiscal year in which the payments are received under the payment schedule of this section. If a district experiences an increase in membership over the prior year, the August 1 payment shall be recomputed so that the district receives credit for the increased membership in the school fiscal year, with the additional amount due the district to be allocated in the February 1, April 1, or June 1 payments or any combination of these payments. However, this additional amount shall then be deducted from the district's subsequent August 1 payment, so that the state pays the district no more, in the state's fiscal year, than the district's proper entitlement under this act. Effective October 1, 1981, this section shall expire if Proposal A, as presented to the electors of this state on May 19, 1981, is approved.

Sec. 18. (1) Except as provided in articles 3, 4, and 6, each district shall apply the money received by the district under this act to salaries of teachers and other employees, tuition, transportation, lighting, heating, ventilation, water service, the purchase of textbooks which are designated by the board to be used in the schools under the board's charge, and other supplies.

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An amount equal to not more than 5% of the total amount received by a district under article 2 may be expended by the board for capital costs or debt service for debts contracted after December 8, 1932. The money shall not be applied or taken for a purpose other than as provided in this section. The department shal determine the reasonableness of expenditures and may withhold from a district th apportionment otherwise due for the fiscal year following the discovery by the department of a violation by the district.

(2) For the purpose of determining the reasonableness of expenditures and whether a violation of this act has occurred, the department shall require that each district have an audit of the district's financial and pupil accounting records at least annually at the expense of the district by a certified public accountant or by the intermediate district superintendent, as may be required by the department, or in the case of a district of the first class by a certified public accountant, the intermediate superintendent, or the auditor general of the city. The audits and management letters shall be subject to rules prescribed by the state board, in consultation with the state auditor general. A copy of the report of each audit shall be filed as required by the state board and shall be available to the public in compliance with Act No. 442 of the Publi Acts of 1976, as amended, being sections 15.231 to 15.246 of the Michigan Compil Laws.

ARTICLE 2

Sec. 21. (1) Except as otherwise provided in this act, from the amount appropriated in section 11, there is allocated to each district an amount per membership pupil sufficient to guarantee the district for 1981-82 a combined state-local yield or gross allowance of $360.00 plus $50.55 for each mill of operating tax levied. For purposes of this section, only taxes levied for purposes included in the operation cost of the district as prescribed in section 7 shall be considered operating tax. The net allocation for each district shall be an amount per membership pupil computed by subtracting, from the gross allowance guaranteed the district, the product of the district's state equalized valuation behind each membership pupil and the millage utilized for computing the gross allowance. Effective October 1, 1981, this subsection shall expire if Proposal A, as presented to the electors of this state on May 19, 1981, is approved.

(2) For 1981-82 only, a district that supported a district library in 1979-80 and continues to provide support for the district library through a millage levied pursuant to Act No. 164 of the Public Acts of 1955, as amended, being sections 397.271 to 397.276 of the Michigan Compiled Laws, shall be credited, for all computations made under this section, with the amount of millage levied for library purposes, but not to exceed 0.7 mills if the district levies not more than 0.7 mills less than its authorized operating millage rate.

(3) State equalization allocations to a district shall be adjusted by subtracting therefrom money received under Public Law 81-874, 20 U.S.C. 236 to 244, in the same proportion as the total local revenues covered under the state equalization program are to total local revenues for education in the district except that not more than $40.00 per pupil in 1981-82, $80.00 per pupil in 1982-83, and $160.00 per pupil in 1983-84 shall be subtracted. The proportion shall be based on prior year revenue and prior year impact aid. Any deduction made under this act shall be consistent with the requirements of section 5 of Public Law 81-874, 20 U.S.C. 240 and its regulations.

(4) Beginning in 1980-81, if the net allocation computed for a district pursuant to subsection (1) is a negative amount, it shall be applied as a deduction against any funds otherwise due the district under all other sections of this act. However, the deduction made under this subsection shall not exceed 50% in 1980-81 and 66% in 1981-82 of a district's total state aid entitlement under all other sections of this act after the following adjustments which shall be based upon per pupil or per professional staff member cost in each program:

(a) The categorical allocations for sections 52 and 61 shall be reduced a proportionate amount for nonresident pupils, and the categorical allocation for section 97 shall be reduced a proportionate amount for each professional staff member not an employee of the district.

(b) The categorical allocations for section 52 shall be increased a proportionate amount for pupils enrolled in a program operated by another district or the intermediate district, and the categorical allocation for section 97 shall be increased a proportionate amount for each professional staff member participating in a consortium of districts, or of districts and intermediate districts, where the legal fiscal agency is another district or intermediate district.

(5) Funds due under sections 53 and 143 shall not be counted for purposes of subsection (4).

(6) The statewide deductions made under subsection (4) shall not exceed $21,500,000.00.

Sec. 22. A K to 12 district formed after January 1, 1981, by the consolidation or annexation of 2 or more K to 12 districts or the attachment of a total K to 12 district to another K to 12 district shall be entitled to receive in 1981-82 the same total allocation under section 21(1) that the individual districts that make up the new district would have been entitled to receive in 1981-82 as separate districts.

Sec. 24. A pupil under court jurisdiction who is placed in a private home or in a private or public institution located outside the district in which the pupil's parents or legal guardians reside may be counted as a resident of the district of attendance if other than the district of the pupil's parents or legal guardian. The pupil shall be counted as 1-1/2 memberships. The total membership of these pupils shall be computed by adding the membership days attended by the pupils before April 1 of the current school year and dividing the total by the number of days in the school year of the district before April 1 of the current school year. The membership thus obtained shall be certified by the district to the department, which shall adjust the total membership of the district accordingly in determining the school aid to be paid during the current fiscal year.

Sec. 25. (1) From the amount appropriated in section 11, there is allocated an amount not to exceed $23,800,000.00 in 1981-82 to applicant districts with nonschool operating property taxes. An applicant district's entitlement shall be determined through a process of gross allowance increase as follows:

(a) An application may be filed by the district in form and content as prescribed by the department showing the total taxes levied on property located within the district by the taxing agencies, including the district, but excluding taxes levied for school operating purposes.

(b) Using the total taxes for the prior year as last reported by the state tax commission for the entire state, but excluding the taxes levied for school operating purposes, the department shall determine the tax rate for the entire state. The applicant district's tax rate shall be determined by dividing the figure obtained in subdivision (a) by the district's prior year state equalized valuation.

(c) If the resulting tax rate for the applicant district is 125% or more of the resulting tax rate for the districts of the state, the gross allowance of the applicant district computed pursuant to section 21(1) shall be increased by the percentage by which the resulting tax rate in the applicant district exceeds 125% of the resulting tax rates in all districts of the state.

(d) Each applicant district's entitlement under this subsection shall be the difference between the allocation received by the district under section 21(1) and the allocation the district would have received under section 21(1) as recomputed using the gross allowance as increased in subdivision (c).

(2) In no case shall a district not receiving an allocation under section 21(1) receive an allocation under subsection (3).

(3) From the amount appropriated in section 11, there is allocated for 1981-82 not to exceed $1,400,000.00 to applicant districts that would receive greater funding under this section if all entitlements were determined through a process of state equalized valuation decrease, rather than gross allowance increase, but otherwise following the same computation prescribed in subsection (1). Each of those entitled districts shall receive, under this subsection, the difference between the amount actually received under subsection (1) and the amount that would be received by the district if the $23,800,000.00 being allocated under subsection (1) were to be allocated through the alternate state equalized valuation decrease computation.

Sec. 26. For purposes of computations made under this act, the valuation of a district or intermediate district shall not include the captured assessed value included in a tax increment financing plan established within the district or intermediate district pursuant to Act No. 197 of the Public Acts of 1975, as amended, being sections 125.1651 to 125.1680 of the Michigan Compiled Laws. A district or intermediate district receiving money pursuant to section 14 of Act No. 197 of the Public Acts of 1975, as amended, being section 125.1664 of the Michigan Compiled Laws, shall have its state funds reduced by an amount equal to the added local money.

ARTICLE 3

Sec. 31. From the amount appropriated in section 11, there is allocated $22,631,000.00 for 1981-82 to enable eligible districts to establish or to continue, in conjunction with whatever federal funds may be available under sections 101 to 134 of title 1 of the elementary and secondary education act of 1965, 20 U.S.C. 2701 to 2754, but not to exceed $200.00 of state funds per eligible pupil participating in the programs, comprehensive compensatory education programs designed to improve the achievement in basic cognitive skills of pupils enrolled in grades K to 9 who have extraordinary need for special assistance to improve competency in those basic skills and for whom the districts are not already receiving additional funds by virtue of the pupils being physically, mentally, or emotionally handicapped.

Sec. 32. (1) A district shall be eligible for an allocation under section 31 if at least 14% of the district's total enrollment in grades K to 9 and not less than 30 of the district's pupils in grades K to 9, as described in section 31 and as calculated pursuant to section 33, are found to be in need of substantial improvement in basic cognitive skills.

(2) For 1981-82, a district which received funds under this article on the basis of the number of eligible pupils calculated pursuant to subsection (1) in 1980-81 and which would not receive funds under subsection (1) shall be distributed an amount equal to 40% of the amount received in 1980-81.

Sec. 33. The number of pupils in grades K to 9 determined to be in need of substantial improvement in the basic cognitive skills for 1981-82 shall be calculated for each district by the following procedural steps:

(a) Using the reading and mathematics test scores of the statewide assessment battery given in the fall of the 3 prior years, the percentage of the district's pupils in grade 4 who attained 45% or fewer of the reading objectives and the percentage of the district's pupils in grade 4 who attained 45% or fewer of the mathematics objectives shall be averaged. The average aggregate enrollment of the district in grades K to 4 on the pupil membership count day of the 3 prior school years shall be multiplied by this average percentage to determine the estimated number of pupils in grades K to 4.

(b) Using the reading and mathematics test scores of the statewide assessment battery given in the fall of the 3 prior years, the percentage of the district's pupils in grade 7 who attained 45% or fewer of the reading objectives and the percentage of the district's pupils in grade 7 who attained 45% or fewer of the mathematics objectives shall be averaged. The average aggregate enrollment of the district in grades 5, 6, 7, 8 and 9 on the pupil membership count day of the 3 prior school years shall be multiplied by this average percentage to determine the estimated number of pupils in grades 5, 6, 7, 8 and 9.

(c) The number of pupils determined in subdivision (a) shall be added to the number of pupils determined in subdivision (b). This resultant sum shall be construed to be the number of pupils of the district enrolled in grades K to 9 who have extraordinary need of substantial improvement in basic cognitive skills at the beginning of the school year.

Sec. 34. The tentative allocations to each eligible district under this article shall be determined by multiplying the number of pupils determined in section 33(c) by $200.00.

Sec. 35. (1) The tentative allocations as determined in section 34 shall be distributed among districts in decreasing order of concentration of eligible pupils as determined by section 33 until the money appropriated in section 31 is distributed if:

(a) The district has applied for the money on a form provided by the department.

(b) The district has shown evidence of having established comparability among schools within the district pursuant to standards established by the state board.

(c) The district is committed to the involvement of parents, teachers, and administrators in the planning and continuous evaluation of compensatory education programs as conducted under this article.

(d) Not less than 50% of the money is expended in school attendance areas having high concentrations of pupils from low-income families, as described under sections 101 to 134 of title 1 of the elementary and secondary education act of 1965, 20 U.S.C. 2701 to 2754.

(e) Each pupil participating in a program funded under this article is educationally deprived and was selected from among the lowest achievers.

(f) Each program funded under this article is based on performance objectives related to educational achievement and is evaluated in a manner consistent with those performance objectives.

(g) Each program funded under this article provides supplementary services designed to meet the unique education needs of the children who are participating.

(h) The district keeps those records and affords access to the records as is necessary to verify compliance with the requirements of this section.

(2) A district shall use the state funds for specifically identified pupils to supplement, and not supplant, the use of federal or local money.

(3) A participating school building having 50% or more of its pupils in grade 4 achieving less than 75% of Michigan education assessment program objectives in reading or math, or both, shall be designated a high-need building. The department shall determine the achievement gain of the high-need building's pupils funded under section 31 as measured by the approved evaluation criteria. If the average rate of achievement gain in reading or mathematics, or both, for that group is not greater than the previous year's compensatory education average rate of achievement gain for that building, the district shall request consultant service from the department beginning with the 1979-80 school year and determine whether the building's delivery system should be modified. A description of the delivery system and rationale for a program under this article for a high-need building with pupils funded under section 31 whose average rate of achievement gain does not exceed the previous year's compensatory education average rate of achievement gain for a period of 3 consecutive years after 1976-77 shall be submitted by the district to the department for approval.

(4) The department shall monitor each program funded under this article to ensure that the requirements of this section are met.

ARTICLE 4

Sec. 41. From the amount appropriated in section 11, there is allocated an amount not to exceed $3,150,000.00 for 1981-82 to applicant districts and intermediate districts offering programs of bilingual instruction for pupils of limited English-speaking ability as required by sections 1152 to 1158 of the school code of 1976. Reimbursement shall be on a per pupil basis and shall be based on the number of pupils of limited English-speaking ability in membership on the pupil membership count day. Funds allocated under this section shall be used solely for the bilingual instruction in speaking, reading, writing, or comprehension of pupils of limited English-speaking ability. A student shall not receive instruction in a bilingual instruction program for more than 3 years.

Sec. 47. From the amount appropriated in section 11, there is allocated an amount not to exceed $525,000.00 for 1981-82 to applicant intermediate districts which provide support services for the education of gifted and academically talented pupils. An intermediate district is entitled to 75% of the actual salary, but not to exceed $15,000.00 reimbursement for an individual salary, of a support services teacher approved by the department, and not to exceed $2,500.00 reimbursement for expenditures on supportive materials and supplies.

Sec. 48. (1) From the amount appropriated in section 11, there is allocated an amount not to exceed $1,260,000.00 for 1981-82 to applicant districts or intermediate districts for nonresidential alternative juvenile rehabilitation programs, which shall be defined as programs for children and youth who have been found to need remedial academic or social rehabilitative services, or both. To be eligible for funding of salaries from legislative appropriations, the county board of commissioners of the county in which the program is conducted or the supervising district or intermediate district, by resolution, shall agree to fund the balance of the cost of the program. The district or intermediate district in which the program is conducted, in cooperation with the juvenile division of the probate court for the county, shall supervise the program. The district or intermediate district may apply for state money for reimbursement of $7,500.00 for the salary of each professional program person required.

(2) The department may use federal funds that may become available for the purpose of strengthening nonresidential alternative juvenile rehabilitation programs.

ARTICLE 5

Sec. 51. (1) There is allocated $111,207,000.00 for 1981-82 to consist of an amount not to exceed $78,707,000.00 from the amount appropriated in section 11 and $32,500,000.00 in federal funding under sections 611 to 620 of the education of the handicapped act, 20 U.S.C. 1411 to 1420, for the purpose of reimbursing districts and intermediate districts for special education programs, services, and special education personnel as prescribed in article 3 of the school code of 1976; net tuition payments made by intermediate districts to the Michigan school for the blind and the Michigan school for the deaf; and programs for pupils handicapped by learning disabilities as defined by the department. For meeting the costs of special education programs and services not reimbursed under this article, a district or intermediate district may use money in general funds or special education funds, not otherwise restricted, or contributions from districts to intermediate districts, tuition payments, gifts and contributions from individuals, or federal funds that may be available for this purpose, as determined by the intermediate district plan prepared pursuant to article 3 of the school code of 1976.

(2) State funds shall be allocated on an added cost basis. Federal funds shall also be allocated on an added cost basis in the greatest amount and to the fullest estent permissible under applicable federal requirements, except that an amount not to exceed $2,778,000.00 may be allocated by the department to districts or intermediate districts on a grant basis for programs and services designed to benefit or improve special education on a statewide scale.

(3) For purposes of this article:

(a) "Added costs" shall be computed by deducting, from the total approved costs of special education programs and services, a gross allowance for each full-time equated special education pupil counted in membership in the district or intermediate district whose primary educational or training program, as determined by the department, is a special education program and service as defined in section 6(7) of the school code of 1976.

(b) "Total approved costs of special education programs and services" shall be determined in a manner specified by the department and may include indirect costs, but shall not exceed 115% of approved direct costs for section 52 and section 53 programs. They shall not include salaries or other compensation paid to administrative personnel who are not special education personnel as defined in section 6(6) of the school code of 1976. Costs reimbursed by federal funds, other than those federal funds included in the allocation made under this article, shall not be included. Special education approved personnel not utilized full time in the evaluation of students or in the delivery of special education programs, ancillary, and other related services shall be reimbursed under this section only for that portion of time actually spent providing these programs and services, with the exception of special education programs and services provided to youth placed in juvenile detention facilities as defined in R 340.1757 of the Michigan Administrative Code. Only salaries and other compensation paid teacher aides required in rules promulgated by the department or as otherwise approved by the department shall be included.

(c) Reimbursement for ancillary and other related services, as defined by R 340.1701 of the Michigan Administrative Code, shall not be provided when those services are covered and available by private group health insurance carriers or federally reimbursed program sources. Expenses, other than the incidental expense of filing, shall not be borne by the parent. In addition, the filing of claims shall not delay the education of a pupil. A school district shall be responsible for payment of a deductible amount and for an advance payment required until the time a claim is paid.

(d) A "membership aid gross allowance" shall be computed pursuant to section 21(1). A pupil who is enrolled in a full-time special education program conducted or administered by an intermediate district or a pupil who is enrolled in the Michigan school for the blind or the Michigan school for the deaf shall not be included in the membership count of a district but shall be counted in membership in the intermediate district of residence. A district operating a center program for pupils from several districts, pursuant to an approved intermediate district plan, may elect to have the pupils counted in membership in the intermediate district. For each pupil, the intermediate district shall receive under section 21(1) a membership aid gross allowance computed by averaging the actual membership aid gross allowances of the intermediate district's constituent districts weighted as to membership.

(4) Special education personnel transferred from 1 district to another to implement the school code of 1976 shall be entitled to the rights, benefits, and tenure to which the person would otherwise be entitled had that person been employed by the receiving district originally.

(5) If a district or intermediate district uses money received under this section for a purpose other than the purpose or purposes for which the money is allocated, the department may require the district or intermediate district to refund the amount of money received. Money which is refunded shall be deposited in the state treasury to the credit of the school aid fund.

Sec. 52. (1) Reimbursement shall be a portion determined by the amount appropriated, but not to exceed 75% of the added costs of operating special education programs and services approved by the department and included in the intermediate district plan adopted pursuant to article 3 of the school code of 1976 for special education pupils other than those programs funded under section 53, and of the costs of programs and services for trainable mentally impaired persons, day training programs, and services for severely mentally impaired persons, the added costs of summer programs and services, and the added costs of providing room and board for special education pupils, as approved by the department. If the state financed proportion of reimbursement of the necessary costs of a special education activity or service required by article 3 of the school code of 1976, which is in addition to or different from the special education activities or services required under sections 611 to 620 of the education of the handicapped act, 20 U.S.C. 1411 to 1420, is less than the state financed proportion of the necessary costs of that activity or service in 1978-79, the portion of the amount appropriated shall be increased to reimburse that activity or service accordingly.

(2) The added costs of transportation for special education pupils shall not be funded under this section but shall be reimbursed under article 7.

Sec. 53. (1) Reimbursement shall be 100% of the added costs of operating special education programs and services approved by the department and included in the intermediate district plan adopted pursuant to article 3 of the school code of 1976 for the special education pupils, including severely mentally impaired, trainable mentally impaired, severely multiply impaired, or otherwise handicapped persons, assigned to a district or intermediate district through the community placement program of the courts or a state agency, if the pupil was a resident of another intermediate district at the time the pupil came under the jurisdiction of the court or a state agency, and for special education pupils who are residents of institutions operated by the department of mental health; who are residents of nursing homes, foster family homes, alternative intermediate service centers, or foster family group homes which are under contract with the department of mental health; who are placed in a district by a parent for the purpose of seeking a suitable home, and the parent does not reside in the same intermediate district as the pupil's placement; who are residents of nursing homes whose educational programs are approved by the department of education; or who are residents of homes for the developmental disabled which are leased by the state or operated under contract with the department of mental health, or both. Only those costs that are clearly and directly attributable to educational programs for pupils described in this subsection, and that would not in fact have been incurred if the pupils were not being educated in a district or intermediate district, shall be reimbursed under this section.

(2) The added costs of transportation shall be funded under this section but shall not be reimbursed under article 7.

(3) Not more than $28,600,000.00 for 1981-82 of the allocation in section 51(1) shall be allocated under this section.

Sec. 54. In addition to the aid received under section 52, each intermediate district shall receive an amount per pupil for each pupil in attendance at the Michigan school for the blind or the Michigan school for the deaf. This amount shall be proportionate to the total instructional cost at each school. Not more than $897,000.00 for 1981-82 of the allocation in section 51(1) shall be allocated under this section.

Sec. 56. (1) For the purposes of this section:

(a) "Membership" means the total membership of the intermediate school and the districts constituent to the intermediate district.

(b) "Millage levied" means the millage levied for special education pursuant to part 30 of the school code of 1976, including a levy for debt service obligations.

(c) "State equalized valuation" means the total state equalized valuation of the districts constituent to an intermediate district, except that if a district has elected not to come under part 30 of the school code of 1976, membership and state equalized valuation of the district shall not be included in the membership and state equalized valuation of the intermediate district.

(2) From the amount appropriated in section 11, there is allocated the amount necessary to reimburse intermediate districts levying millages for special education pursuant to part 30 of the school code of 1976. The purpose, use, and expenditure of the reimbursement shall be limited as if the funds were generated by these millages and governed by the intermediate district plan adopted pursuant to article 3 of the school code of 1976. As a condition of receiving funds under this section, an intermediate district distributing any portion of special education millage funds to its constituent districts shall submit for departmental approval and implement a distribution plan that utilizes at least a membership aid gross allowance, as computed pursuant to section 21(1), as a required local contribution.

(3) Reimbursement for those millages levied in 1980-81 shall be made in 1981-82 at an amount per 1980-81 membership pupil computed by subtracting from $46,000.00 the 1980-81 state equalized valuation behind each membership pupil, and multiplying the resulting difference by the 1980-81 millage levied.

ARTICLE 6

Sec. 61. (1) From the amount appropriated in section 11, there is allocated $20,300,000.00 for 1981-82 to reimburse districts and secondary area vocational-technical centers for secondary-level vocational-technical education programs on an added cost basis. The definition of what constitutes those programs and reimbursement shall be pursuant to rules promulgated by the state board. Applications for participation in the programs shall be filed in the form prescribed by the department. The department shall determine the added cost for each vocational-technical program area. The allocation of added cost funds shall be based on the type of vocational-technical programs provided, the number of pupils enrolled, and the length of the training period provided, and shall not exceed 75% of the added cost of any program. The board of a district maintaining a secondary vocational-technical education program, with the approval of the department, may offer the program for the period from the close of the school year until September 1. The program shall use existing facilities and shall be operated as prescribed by rules promulgated by the state board.

(2) Districts and intermediate districts shall be reimbursed for local vocational administration, shared time vocational administration, and career education planning district vocational-technical administration. The definition of what constitutes administration and reimbursement shall be pursuant to guidelines adopted by the state board. Not more than $800,000.00 of the allocation in subsection (1) shall be distributed under this subsection.

Sec. 62. (1) For the purposes of this section:

(a) "Membership" means the total membership of the intermediate district and the districts constituent to the intermediate district or the total membership of the area vocational-technical education program.

(b) "Millage levied" means the millage levied for area vocational-technical education pursuant to sections 681 to 690 of the school code of 1976, including a levy for debt service obligations incurred as the result of borrowing for capital outlay projects and in meeting building and site fund requirements of area vocational-technical education.

(c) "State equalized valuation" means the total state equalized valuation of the districts constituent to an intermediate district or area vocational-technical education program, except that if a district has elected not to come under sections 681 to 690 of the school code of 1976, the membership and state equalized valuation of the district shall not be included in the membership and state equalized valuation of the intermediate district.

(2) From the amount appropriated in section 11, there is allocated the amount necessary to reimburse intermediate districts and area vocational-technical education programs established under section 690(3) of the school code of 1976, levying millages for area vocational-technical education pursuant to sections 681 to 690 of the school code of 1976. The purpose, use, and expenditure of the reimbursement shall be limited as if the funds were generated by those millages.

(3) Reimbursement for the millages levied in 1980-81 shall be made in 1981-82 at an amount per 1980-81 membership pupil computed by subtracting from $46,000.00 the 1980-81 state equalized valuation behind each membership pupil, and multiplying the resulting difference by the 1980-81 millage levied.

ARTICLE 7

Sec. 71. (1) From the amount appropriated in section 11, there is allocated an amount not to exceed $81,674,000.00 for 1981-82 to reimburse districts and intermediate districts transporting pupils by school bus, passenger van, station wagon, or adequate vehicle of ample capacity from the vicinity of their homes to the schools the pupils attend, or from their homes or schools to area vocational centers or other facilities providing approved occupational programs and back again in amounts determined by the department, but not to exceed 75% of the actual cost of the transportation. The rate of reimbursement for contracted transportation services or transportation services provided through the use of public transit systems shall be the same as for district-owned bus fleets. The rate of reimbursement for insuring transportation vehicles shall be based upon the actual and necessary costs of the insurance. Reimbursement shall not be granted for the transportation of pupils living within 1-1/2 miles of the schools which the pupils attend, except for handicapped pupils, as defined by rules promulgated by the state board, whom the department determines cannot safely walk the distance, or for pupils in attendance at alternative education programs for pregnant persons. Transportation distances shall be measured along public streets and highways.

(2) Districts and intermediate districts shall be reimbursed for transporting pupils whose primary educational or training program, as determined by the department, is a special education program as defined in section 6(7) of the school code of 1976, from their homes or schools to approved special education programs, including summer programs, for which the district or intermediate district receives added-cost reimbursement under section 52, and back again. Costs in excess of $2,500.00 for a pupil shall not be used to compute reimbursement for transportation. The department may grant exceptions for certain pupils. Not more than $19,147,000.00 of the allocation in subsection (1) shall be distributed under this subsection.

(3) Upon investigation the department shall review, confirm, set aside, or amend the action, order, or decision of the board of a district with reference to the routes over which the pupils shall be transported, the distance the pupils shall be required to walk, and the suitability and number of vehicles and equipment for the transportation of the pupils.

(4) An allotment for transportation shall not be allowed a district which operates a bus route disapproved by the department.

(5) Districts having pupils living in remote or isolated areas from which transportation to and from regularly scheduled classes is either impossible or prohibitively expensive for seasonal periods of less than half of the regularly scheduled school year may establish, with department approval, alternative tutoring programs and be reimbursed under this section for 75% of the approved costs of the programs.

Sec. 73. (1) The intermediate school superintendent and the constituent school superintendents, not later than March 1, 1982, may develop a plan that could permit the intermediate district to operate intermediate districtwide transportation programs for constituent school district pupils.

(2) Not later than June 1, 1982, each intermediate school district may submit to the state department a feasibility study for implementing a centralized purchasing plan for procurement of school buses and school insurance for the intermediate school district and constituent districts. The state department shall compile the feasibility studies submitted under this subsection and transmit them, not later than July 31, 1982, to the senate and house committees that have the responsibility for education legislation.

Sec. 74. A state supported college or university or intermediate school district providing school bus driver safety instruction pursuant to section 305a of Act No. 300 of the Public Acts of 1949, as amended, being section 257.305a of the Michigan Compiled Laws, shall be granted an amount determined by the department not to exceed 75% of the actual cost of instruction and driver compensation for each public or nonpublic school bus driver attending a course of instruction. For the purpose of computing compensation, the hourly rate allowed each school bus driver shall not exceed the hourly rate received for driving a school bus. Reimbursement compensating the driver during the course of instruction shall be made by the department to the college or university or intermediate school district providing the course of instruction.

ARTICLE 8

Sec. 81. From the amount appropriated in section 11, there is allocated to the intermediate districts the sum necessary, but not to exceed $13,764,000.00 for 1981-82, to provide state aid to intermediate districts. There shall be allocated to each intermediate district an amount obtained by multiplying the number of pupils in membership in the intermediate district and its constituent districts by $12.40, and then subtracting the product of 0.1 mill and the state equalized valuation of the property in the intermediate district. However, an intermediate district shall not receive less than the greater of the following amounts:

(a) An amount per pupil obtained by adding 105% of the prior year's state aid per pupil received under this section and 105% of the product of the prior year's state equalized valuation per pupil and the prior year's operating millage, and then subtracting the product of the current year's state equalized valuation per pupil and the prior year's operating millage.

(b) An amount per pupil equal to 100% of the 1980-81 aid per pupil received under this section.

Sec. 83. From the amount appropriated in section 11, there is allocated to intermediate districts $1,400,000.00 for 1981-82 to operate educational media centers under section 671 of the school code of 1976 and the rules promulgated by the state board.

ARTICLE 9

Sec. 93. (1) From the amount appropriated in section 11, there is allocated an amount not to exceed $558,000.00 for 1981-82 to be used for the salaries of teachers in alternative education programs for school age expectant parents and school age parents and their children, as approved by the department under section 1301 of the school code of 1976. Districts and intermediate districts providing approved programs shall be entitled to 75% of the actual cost of the salary, not to exceed $8,100.00 for an individual salary, of each teacher approved by the department.

(2) From the amount appropriated in section 11, there is allocated an amount not to exceed $240,000.00 for 1981-82 to support the operation of pilot school-age parents projects approved by the department.

Sec. 96. From the amount appropriated in section 11, there is allocated an amount not to exceed $2,282,000.00 for 1981-82 to be used by districts conducting community school programs approved by the department.

Sec. 97. (1) From the amount appropriated in section 11, there is allocated an amount not to exceed $2,240,000.00 for 1981-82 to applicant districts and intermediate districts for local professional staff development and career education in-service programs. Each district and intermediate district shall be eligible to receive $25.00 per professional staff member. Each district or intermediate district with a professional staff equal to or greater than 750, or a consortium of districts, intermediate districts, or a combination of districts and intermediate districts with professional staff of 750 or more shall be eligible for an additional $10.00 per professional staff member upon completion of an application, as approved by the department, to be submitted by November 1, 1981.

(2) Applications submitted for receipt of funds under this section shall include:

(a) Identification of the district, intermediate district, or consortium needs assessment for staff development by the local policy board.

(b) Identification of the goals and objectives of a staff development program by the local policy board.

(c) Identification of the process for program development and identification of potential resources such as colleges, universities, community colleges, and intermediate districts.

(d) Identification of the process for program evaluation.

(e) Designation of a program coordinator.

(f) Designation of a policy board with a minimum of 11 members. The teacher representatives shall be appointed by the teachers' collective bargaining agent or elected by all teachers in an area where there is not a collective bargaining agent. The policy board shall consist of a majority of teachers with the balance of the board composed of representatives of district or intermediate district boards of education, administrators, and other support personnel.

(g) Designation of a legal fiscal agent.

(h) Provision for the in-service of teachers and counselors on career education.

(3) Participation by professional staff may be voluntary.

(4) A 3-year plan shall be submitted which prioritizes utilization of staff development funds. This plan may include locally identified needs in the following areas:

(a) Equal educational opportunity, including title IX of the education amendments of 1972, Public Law 92-318, 86 Stat. 235; title VI of the civil rights act of 1964, Public Law 88-352, 78 Stat. 241; and section 504 of the rehabilitation act of 1973, 29 U.S.C. 794.

(b) Management training for administrators.

(c) Utilization of assessment results for district and building level improvement in the basic skills.

(d) Working with pupils with special needs including work in bilingual programs, mainstreaming programs, and gifted and academically talented pupils programs.

(5) Not more than 15% of the money received may be used for program coordination without department approval.

(6) The funds allocated under this section shall not be expended for facility rental, overhead charges, or stipend payments.

(7) A legal fiscal agent may be a district or an intermediate district.

(8) The department shall submit a progress report on all professional development activities to the legislature not later than April 1 each year.

(9) As part of each district's and intermediate district's allocation, as provided in subsection (1), not less than an amount per professional staff member sufficient to provide a statewide total of $570,000.00 shall be used for the purpose of conducting career education professional development programs, as defined by the department. The career education professional development activities shall correspond to the professional development needs identified in the district or intermediate district career education plan for the current year. The career education in-service plan of each professional development program shall be approved by the career education planning district council representing the districts and intermediate districts involved. Programs and personnel funded under sections 61 and 96 shall not be funded under this subsection.

(10) Additional general fund revenue which becomes available for districts or intermediate districts for local professional staff development and career education in-service programs is appropriated for that purpose. An amount equal to the additional general fund revenue which becomes available for districts or intermediate districts for local professional staff development and career education in-service programs shall be deducted from the amount appropriated in section 11 as allocated pursuant to subsection (1) and shall be credited to the general fund of the state.

ARTICLE 10

Sec. 101. (1) To be eligible to receive state aid under this act, not later than the third Friday following the pupil membership count day, each district superintendent through the secretary of the district's board shall file with the intermediate superintendent a certified and sworn copy of the district's enrollment for the current school year. In addition, a district maintaining school during the entire year, as provided under section 1561 of the school code of 1976, shall file with the intermediate superintendent a certified and sworn copy of the enrollment for the current school year pursuant to rules promulgated by the state board. In case of failure to file the sworn and certified copy not later than the third Friday following the pupil membership count day or pursuant to rules promulgated by the state board, state aid due to be distributed on December 1 under this act shall be withheld from the defaulting district. A person who wilfully falsifies a figure or statement in the certified and sworn copy of enrollment shall be punished in the manner prescribed by the laws of this state.

(2) Each district shall provide a minimum of 180 days of pupil instruction. A district failing to hold 180 days of pupil instruction shall forfeit 1/180 of its total state aid appropriation for each day of failure. A district failing to comply with rules promulgated by the state board which rules establish the minimum time pupil instruction is to be provided to pupils for the regular school year shall forfeit from its total state aid allocation an amount determined by applying a ratio of the time duration the district was in noncompliance in relation to the minimum time pupil instruction is required. A district failing to meet both the minimum 180 days of pupil instruction requirement and the prescribed time of pupil instruction requirement shall be penalized only the higher of the 2 amounts calculated under the forfeiture provisions of this subsection. Not later than August 1, the board of each district shall certify to the department the number of days of pupil instruction in the previous school year. If the district did not hold at least 180 days of pupil instruction, the deduction of state aid shall be made in the following fiscal year from the first payment of state school aid. Days lost because of strikes or teachers' conferences shall not be counted as days of pupil instruction. A district not having 70% of the district's membership in attendance on any day shall receive state aid in that proportion of 1/180 that the actual percent of attendance bears to 70%. The state board shall promulgate rules for the implementation of this subsection.

(3) A district shall not be allotted or paid a sum under this act in a fiscal year if the department determines that at the end of the preceding school fiscal year the amount of funds on hand in the district available for the payment of the operation cost in the district exceeded the amount of money expended for operation cost in the district during the preceding school fiscal year.

Sec. 102. (1) A district receiving money under this act shall not adopt or operate under a deficit budget and a district shall not incur an operating deficit in a fund during a school fiscal year. Each district shall submit the district's adopted budget for the current school fiscal year to the department before November 1. A district having an existing deficit or which incurs a deficit shall not be allotted or paid a further sum under this act until the district submits to the department for approval a budget for the current school fiscal year and a plan to eliminate the district's deficit not later than the end of the second school fiscal year after the deficit was incurred. Withheld state aid payments shall be released after the department approves the deficit reduction plan and ensures that the budget for the current school fiscal year is balanced.

(2) The department shall report to the legislature annually those deficits incurred by districts and the progress made in reducing deficits.

(3) The amount of the permissible deficit for each school fiscal year shall not exceed the amount of state aid reduced by an executive order during that school fiscal year.

(4) A district with an existing deficit or which incurs a deficit shall submit a monthly expenditure report to the department, house and senate appropriations committees, and house and senate fiscal agencies.

(5) For the 1979-80, 1980-81, 1981-82, and 1982-83 school fiscal years only, a district which levied 35.75 mills or 34.83 mills for operating purposes in 1979-80, and is operating under a deficit budget, shall continue to receive state aid allotments and payments if the district submits to the department for approval a plan to eliminate the deficit not later than June 30, 1983. Any district which levied 34.83 mills for operating purposes in 1979-80 shall adopt a plan for 1981-82 that results in an operating deficit of not more than $200,000.00 by June 30, 1982, and shall end the 1981-82 fiscal year with an operating deficit of not more than $200,000.00.

(6) For the 1980-81 and 1981-82 school fiscal years only, a district which levied 28 mills, 31.2155 mills, 24.19 mills, or 22,6027 mills for operating purposes in 1979-80, and is operating under a deficit budget, shall continue to receive state aid allotments and payments if the district submits to the department for approval a plan to eliminate the deficit not later than June 30, 1982.

(7) For the 1980-81, 1981-82, 1982-83, and 1983-84 school fiscal years only, a district which levied 27.90 mills for operating purposes in 1979-80, and is operating under a deficit budget, shall continue to receive state aid allotments and payments if the district submits to the department for approval a plan to eliminate the deficit not later than June 30, 1984.

(8) Not less than 30 days before any withholding of state aid pursuant to this section, the department shall explain, in writing, to the chairpersons of the senate and house appropriations committees, the pertinent fiscal circumstances of the district's noncompliance. If the chairpersons jointly inform the department, in writing, that the circumstances justify an extension of the deficit retirement provisions, state aid shall not be withheld during the fiscal year in which notification is made. Beginning in 1981-82, this subsection shall apply only to those districts operating under a deficit budget in the current school fiscal year, but which did not incur an operating deficit in the prior school fiscal year.

Sec. 103. (1) A district shall not be allotted or paid a sum under this act for the number of pupils in membership in excess of a ratio of 30 pupils to 1 teacher. The department may include all pupils in membership regardless of this section if in the department's judgment the district could not maintain the ratio because of lack of funds, facilities, or qualified teachers.

(2) For the purpose of this section, "teacher" means an employee of the district holding a valid Michigan teacher's certificate.

Sec. 105. (1) Pupils to be counted in membership shall be not less than 5 years of age on December 1 and less than 20 years of age on September 1 of the school year except as follows:

(a) A special education pupil who is enrolled and receiving instruction in a special education program approved by the department and not having a high school diploma who is less than 26 years of age as of September 1 of the current school year shall be counted in membership.

(b) A pupil who is enrolled in classes as specified under section 108(1) required for that pupil to obtain a high school diploma may be counted in membership regardless of age.

(c) A pupil not having a high school diploma taking instruction in an adult basic education program which provides instruction in mathematics, reading, or English, as specified under section 108(1), may be counted in membership regardless of age.

(d) A pupil not less than 16 years of age who is enrolled in classes in a program under section 108 may be counted in membership.

(2) A pupil less than 20 years of age on September 1 of the school year and having obtained a high school diploma shall be counted in membership if enrolled in academic or vocational-technical courses that would normally be credited toward high school completion.

Sec. 106. A pupil enrolled in a public school program organized under federal or state supervision and in which the teaching costs are fully subsidized from federal or state funds shall not be counted in membership.

Sec. 107. The prorated membership of a part-time pupil, 18 years of age or older on September 1 of a school year, attending adult education classes in grades 9 to 12 shall be computed by applying a ratio which is the relation between the number of hours of student instruction received and 480 clock hours of classroom instruction. Time required to pass to and from classes shall be counted as classroom instruction, but meal time, study halls, or recess time shall not be counted.

Sec. 108. (1) A district operating an adult education program and receiving an allocation under section 21(1) shall:

(a) Provide the program within the geographic boundaries of the district.

(b) Develop course descriptions for all adult basic and high school completion courses approved by the board of education which shall be available for review by the department not later than October 1 of each school year.

(c) Have on file a planned program for adult basic education or a planned program for a high school diploma, or both, for each individual enrolled in an adult basic education program or adult high school completion program, or both, comparable to planned programs maintained for a pupil in the regular program of the district.

(d) Insure that the adult high school completion program is comparable to the requirements and standards of other high school completion programs in that district. If modifications are made in programs or courses, or both, to accommodate adult needs, specific rationale for the modifications shall be available for review.

(e) Maintain pupil records comparable to those maintained for the regular high school program of that district.

(2) Two or more K to 12 districts may conduct adult education programs on a cooperative basis. Cooperating districts shall enter into an annual written agreement which shall cover all of the high school completion programs and adult basic education programs offered within the participating districts. Exceptions to this provision may be made with the approval of the department. An agreement shall include the educational, administrative, management, operational, and financial matters concerning adult education programs and services offered by all the participating districts. One district shall be designated in the agreement as the administrator of the adult education cooperative program and shall operate the program as a direct extension of the district, except that the pupils enrolled in the program may be counted on the pupil membership count day of the district in which the pupils' classes are held.

(3) A district which does not receive an allocation under section 21(1), with the approval of the department, may enter into a cooperative arrangement with a district which receives membership aid for the purpose of obtaining educational services for adult pupils. These cooperative arrangements shall meet the same conditions as those listed in subsection (2).

(4) A district which operates an adult education program under subsection (2) and enrolls pupils from districts not receiving an allocation under section 21(1) or not levying operating millage equal to or greater than that of the district which operates the program shall receive for those pupils the lesser of the following gross allowances:

(a) The operating district's gross allowance.

(b) A gross allowance computed by averaging the actual gross allowances weighted as to membership of the constituent districts in the intermediate district of the operating district.

ARTICLE 11

Sec. 111. (1) Except as provided in section 113, a district having tuition pupils enrolled on the pupil membership count day of each year shall charge the district in which the tuition pupils reside tuition computed under section 1401 of the school code of 1976, except tuition shall not be charged for adult part-time pupils. The resulting tuition rates shall be reduced by the gross per pupil membership guarantee provided under section 21(1), except that the following districts shall charge the full per capita operating cost determined under section 1401 of the school code of 1976 for tuition pupils other than special education pupils:

(a) A district not receiving a membership allowance under section 21(1).

(b) Beginning in 1979-80, a district that would not receive a membership allowance under section 21(1) if tuition pupils were not included in membership in the receiving district.

(c) A district enrolling pupils who reside in a district which is legally liable for the payment of the tuition, does not receive a net allocation under section 21(1), and levies a lower operating millage than the district enrolling the pupils.

(2) A pupil for whom the full per capita operating cost, as determined under section 1401 of the school code of 1976, is charged as tuition under subsection (1) shall not be counted in membership in the receiving district for purposes of calculating state aid allocations under sections 21(1) and 143.

A pupil for whom the full per capita operating cost, as determined under section 1401 of the school code of 1976, is paid by the pupil's district of residence under subsection (1) shall be counted in membership in the pupil's district of residence solely for purposes of calculating state aid allocations under sections 21(1) and 143.

(3) Special education tuition pupils enrolled in a district not receiving a net allocation under section 21(1) shall be counted in membership in the intermediate district to which the district is constituent, and the resulting membership aid shall be paid by the intermediate district to the receiving district and deducted from the tuition rates charged the sending district. An additional allowance for nonpublic, nonresident pupils in part-time membership shall be made to the district receiving nonpublic, nonresident pupils in an amount equal to the difference between the per capita cost as determined under section 1401 of the school code of 1976 and the gross allowance calculated under section 21(1).

Sec. 113. A pupil residing in a juvenile or detention home operated by the juvenile division of a probate court and attending school by direction of the court in the district of residence of the pupil's parent or legal guardian shall not be counted as a tuition pupil but shall be counted in resident membership in that district. A pupil residing in the home of the pupil's parent or legal guardian but who, by assignment of a probate court, attends school in another district shall not be counted as a tuition pupil but shall be counted in resident membership in the district which the pupil attends. A pupil residing in the home of the pupil's parents or legal guardian or juvenile home but who, by direction of local school authorities and approval of the probate court, may be enrolled in school in another district shall not be counted as a tuition pupil but shall be counted in resident membership.

Sec. 116. A district having American Indian pupils in attendance, who reside within the district and upon a United States government Indian reservation, shall be allowed in addition to the allowances provided by the other sections of this act an amount equal to the number of those pupils in attendance times 1/2 the tuition rate as computed under section 111 and under section 1401 of the school code of 1976. A district receiving federal assistance under the elementary and secondary education act of 1965, 20 U.S.C. 236 to 246, shall not share in the allowances under this section.

Sec. 117. A district shall not be allotted or paid a sum under this act unless the district charges the legal amount of tuition for tuition pupils enrolled on the pupil membership count day of each year from the districts in which the tuition pupils reside and has certified that fact to the department. If no district is legally liable for the payment of the tuition and the tuition has not been collected from the parents or guardian of the tuition pupils before July 1 of each year, the number of those pupils shall be deducted from the membership of the district and the allowances as provided in section 21(1) shall be recomputed accordingly. A district which enrolls and educates pupils who are residents of another district due to uncertainty as to the boundary of a district, and which serves notice to the resident district where the pupils must attend school in subsequent school years, shall not forfeit membership allowance or recalculate allowances under section 21(1).

Sec. 118. A district shall not be allotted or paid a sum under this act after April 1 of each year unless that district pays the legal amount of tuition for tuition pupils on or before the date to the districts in which the tuition pupils are in school membership on the preceding pupil membership count day of each year and has certified that fact to the department.

ARTICLE 12

Sec. 121. The valuation of a whole or fractional district shall be the total state equalized valuation of the property contained in the whole or fractional district as last fixed by the state tax commission.

Sec. 122. The valuation of property assessed under Act No. 189 of the Public Acts of 1953, as amended, being sections 211.181 to 211.182 of the Michigan Compiled Laws, shall be deducted from the total valuation of a district if school taxes levied against the property are not collected from the lessee or user of the property. The credit so obtained by a district in the application of the formula provided in section 21(1) shall remain a lien against the district and shall be paid by the district to the school aid fund when the taxes are collected.

Sec. 124. When taxes levied for operating purposes against property constituting at least 10% of the valuation of a district are paid under protest and, therefore, are unavailable to the district, the total valuation of the district for the purposes of this act shall be reduced by the valuation of the property. The credits so obtained by a district in the application of the formula provided in section 21(1) shall remain a lien against the district and shall be paid by the district to the school aid fund when the taxes are collected.

ARTICLE 14

Sec. 143. (1) From the amount appropriated in section 11, there shall be allocated to each eligible district the following amount per pupil, except as provided in subsection (2):

(a) Add the following:

(i) 105% of the previous year's membership aid per pupil received under section 21(1).

(ii) 105% of the previous year's membership aid per pupil received under this section.

(iii) 105% of the product of the previous year's state equalized valuation per pupil and the 1975-76 millage levied for purposes included in the operation cost of the district as prescribed in section 7.

(b) From the sum obtained in subdivision (a), subtract the following:

(i) The current year's membership aid per pupil received under section 21(1) or the membership aid per pupil which would be due the district if the current year's formula were applied to the 1975-76 operating millage, whichever is greater.

(ii) The product of the current year's state equalized valuation per pupil and the 1975-76 operating millage levied.

(2) A district shall not receive a greater amount per pupil under subsection (1) in 1981-82 than was received by the district in 1980-81.

(3) The purpose, use, and expenditure of aid received under this section shall be limited as if the funds were generated by ad valorem taxes levied for operating purposes.

ARTICLE 15

Sec. 151. Annually the treasurer of each county shall furnish to the department, before July 1 following the receipt of assessment rolls, a statement of the state equalized valuation of each district and fraction of a district within the county on forms furnished by the department.

Sec. 152. Before the first Monday in November of each year, each district shall furnish to the department those reports as the department considers necessary for the determination of the allocation of funds under this act.

Sec. 153. Each district and intermediate district shall furnish to the legislative fiscal agencies of the state legislature information the agencies require on forms prepared and furnished by the agencies, relative to the expenditure of funds appropriated and allocated under this act.

Sec. 154. Each intermediate superintendent between August 20 and August 30 of each year, and at any other time upon the request of the treasurer of the county, shall furnish to the county treasurer the names and post-office addresses of the treasurers, presidents, and secretaries of the boards of the intermediate district's constituent districts.

Sec. 155. The secretary of the board of each district enrolling nonresident pupils shall certify to the department on forms furnished by the department, the number of nonresident pupils enrolled in each grade on the pupil membership count day of each year, the districts in which the nonresident pupils reside, the amount of tuition charged for the current year, and other information required by the department.

Sec. 156. The department shall inform, in writing, each legislator who so requests the amount of money each district in the legislator's legislative district will receive in the next state aid payment made under section 17 before the warrant is delivered.

ARTICLE 16

Sec. 161. A school official or member of a board or other person who neglects or refuses to do or perform an act required by this act or who violates or knowingly permits or consents to the violation of this act, is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than $500.00, or both.

Sec. 162. A district which fails through the negligence of the districct's officers to file reports pursuant to article 15 shall forfeit that proportion of funds to which the district otherwise would be entitled under this act as the delay in the reports bears to the school term as required by law for the district.

Sec. 163. As provided in the school code of 1976, the board of a district shall not permit an unqualified teacher to teach in a grade or department of the school. A district employing teachers not legally qualified shall have deducted the sum equal to 1/2 the amount paid the teachers. Each intermediate superintendent shall notify the department of the name of the unqualified teacher and the district employing the unqualified teacher and the amount of salary the unqualified teacher was paid within a constituent district.

ARTICLE 17

Sec. 171. (1) Act No. 90 of the Public Acts of 1977, as amended, being sections 388.1401 to 388.1572 of the Compiled Laws of 1970, is repealed.

(2) A reference to a section or subsection of this act applicable to a fiscal year ending before October 1, 1979, shall be considered a reference to the section, subsection, or provision of former Act No. 90 of the Public Acts of 1977 or former Act No. 258 of the Public Acts of 1972, governing the same subject matter, as determined by the department.

Sec. 171a. If the electors of this state approve Proposal A as presented to the electors on May 19, 1981, the legislature, by June 15, 1981, shall prepare legislation to provide for a revised method of distributing general membership aid.

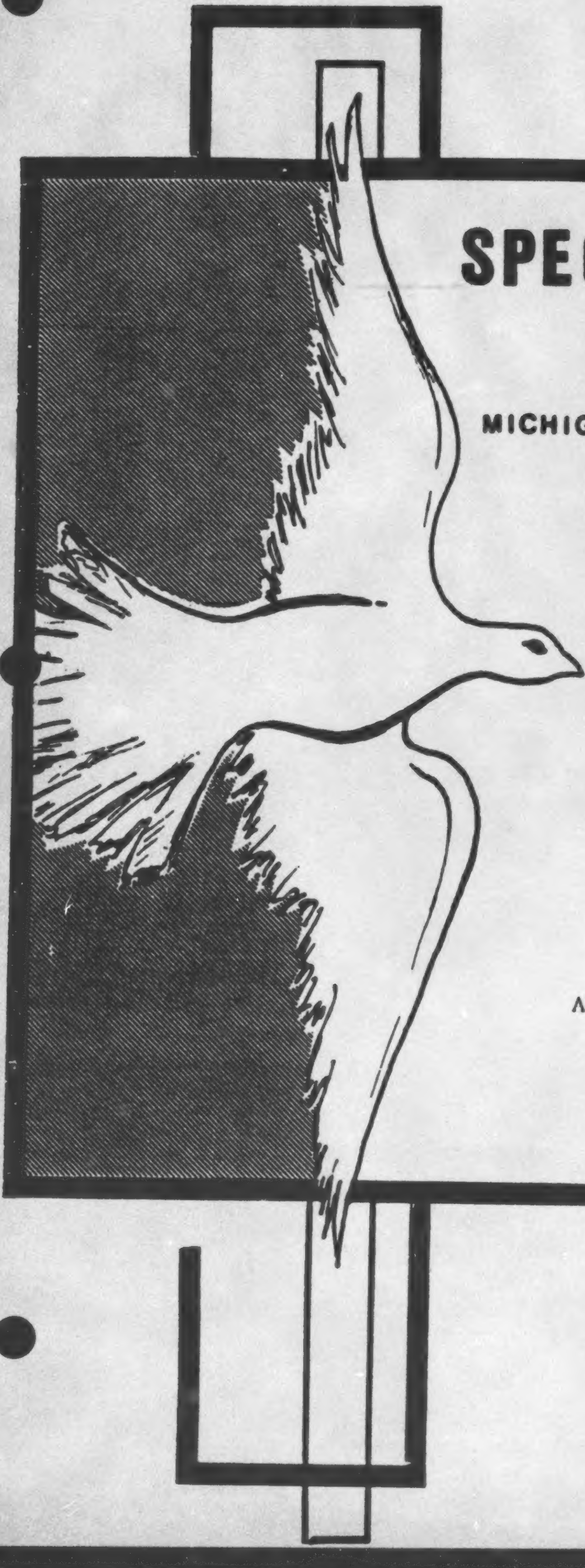
Section 172. This act shall take effect October 1, 1979.

P.A. 320 of 1980, which amends P.A. 94 of 1979, shall take effect October 1, 1980.

P.A. 36 of 1981, which amends P.A. 94 of 1979, shall take effect October 1, 1981, except for sections 21(4) and 171a.

Sections 21(4) and 171a became effective upon enactment, May 13, 1981.

RESOURCES



SPECIAL EDUCATION SERVICE AREA

MICHIGAN DEPARTMENT OF EDUCATION

INFORMATION BOOKLET

ADDRESS: Davenport Building
P.O. Box 30008
Lansing, Michigan 48909

STATE BOARD OF EDUCATION

5th Floor Michigan National Tower - (517) 373-3900

Barbara Dumouchelle, President	Grosse Ile
Dr. Gumecindo Salas, Vice President	East Lansing
David Laro	Flint
Norman Otto Stockmeyer, Sr., Treasurer	Westland
Dr. Edmund F. Vandette, NASBE Delegate	Houghton
Annetta Miller	Huntington Woods
Barbara Roberts Mason	Lansing
John Watanen, Jr.,	Marquette

SUPERINTENDENT OF PUBLIC INSTRUCTION

Phillip E. Runkel

MICHIGAN DEPARTMENT OF EDUCATION SPECIAL EDUCATION ADVISORY COMMITTEE

1981-82

Mr. Richard Asiala, Supt. (1982)
Traverse Bay ISD
2325 North Garfield Road
Traverse City, Michigan 49684
(616) 946-1300

Mr. Lynwood Beekman (1984)
Foster, Swift, Collins & Coey, P.C.
Attorneys at Law, Foster Building
313 South Washington Square
Lansing, Michigan 48933
(517) 372-8050

Dr. Gaston E. Blom (1984)
Medical Director, University Centers
for International Rehabilitation
Dept. of Psychiatry, East Fee Hall
Michigan State University
East Lansing, Michigan 48824
(517) 355-1824

Mrs. Harriet Casorso (1984)
1030 East Pine River Road, R#9
Midland, Michigan 48640
(517) 631-0839

Mrs. Diane Dingman (1983)
24504 Beck Drive
East Detroit, Michigan 48021
(313) 775-0317

Dr. Jan W. Jacobs, Supt. (1984)
South Redford School District
26141 Schoolcraft
Redford, Michigan 48239
(313) 535-4000

Mr. Carl Maple (1982)
Melvin G. Millet Learning Center
3660 Southfield Drive
Saginaw, Michigan 48601
(517) 776-3041

Dr. William Sosnowsky (1982)
16813 Cranford Lane
Grosse Pointe, Michigan 48230
(313) 577-1691 office
(313) 882-5375 home

Mrs. June Schaefer (1983)
Director, Special Education
Marquette-Alger ISD
427 West College Avenue
Marquette, Michigan 49855
(906) 228-9400

Department of Education

Mr. Murray O. Batten, Ex Officio
Director, Special Education
Michigan Department of Education
P.O. Box 30008
Lansing, Michigan 48909
(517) 373-2952

INTRODUCTION

The purpose of this general information booklet is to facilitate and enhance communication between the Special Education Services Area and the consumers and providers which it serves. Although this booklet will not provide answers to all questions, we hope that it will present you with an overview of our organizational structure and facilitate more direct communication.

Special Education Services Area

The Special Education Services Area of the Michigan Department of Education is administratively responsible for providing leadership, technical assistance and consultation to the 58 intermediate school districts, which includes 532 local districts, to ensure that all handicapped individuals are properly identified, diagnosed, and placed in programs appropriate to their individualized needs, thus leading to the development of their maximum potential.

The legal authority for this administrative responsibility is contained in P. A. 451 of 1976 commonly referred to as the School Code of 1976.

Mr. Murray Batten is the State Director of SESA. The Director is an exofficio member of the Special Education Advisory Committee which is a statutory advisory committee to the State Board of Education.

The State Special Education Advisory Committee, as established by Act 154 of the Public Acts of 1966, advises the State Board of Education on matters relating to Special Education.

The primary goal of the Services Area is to ensure that each handicapped person in Michigan has the opportunity to develop into as self-sufficient and as contributing a member of his community as possible. Five programs within the Services Area provide direct and indirect services towards the attainment of this goal. These programs are as follows:

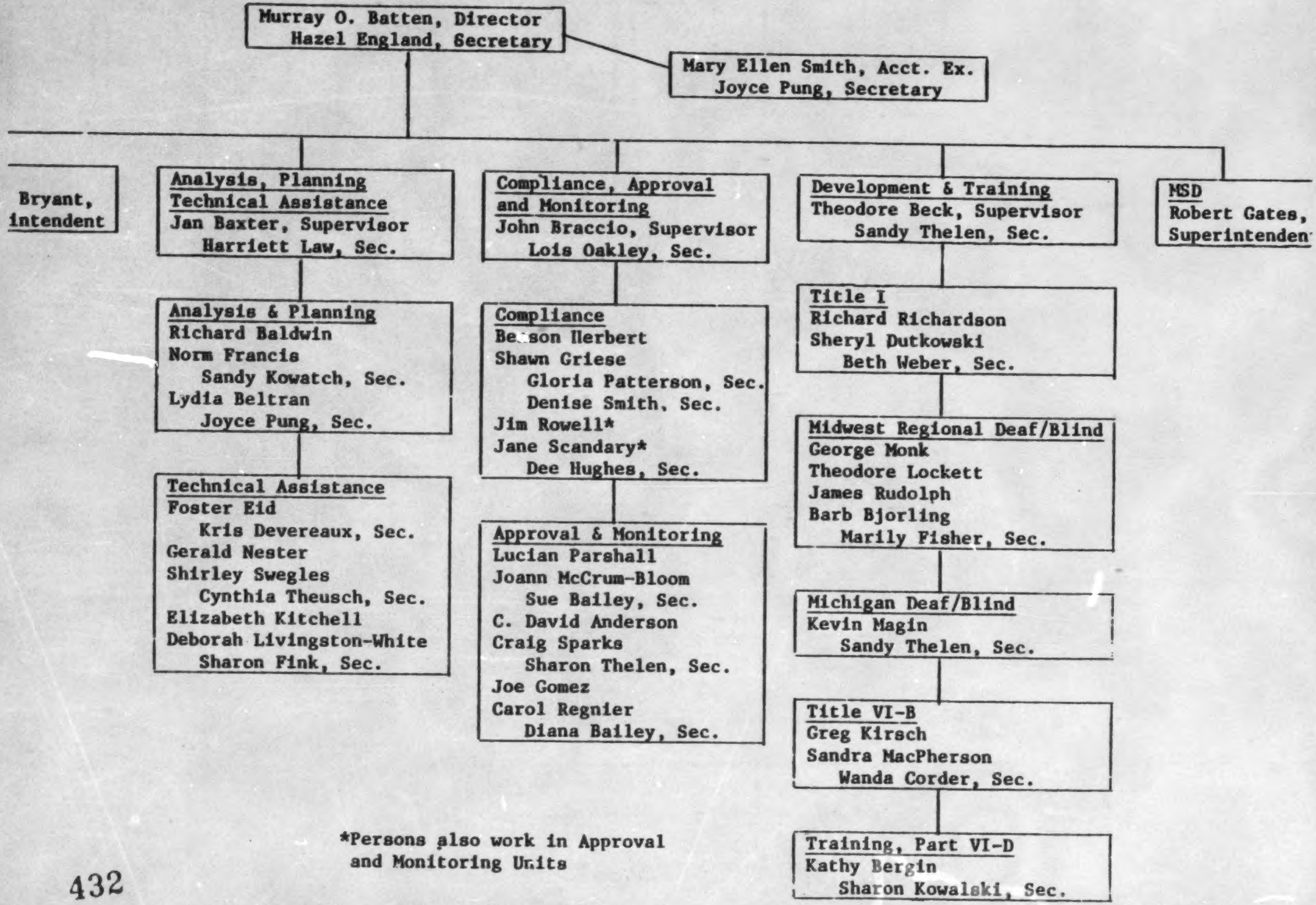
1. Analysis, Planning and Technical Assistance.
2. Compliance, Approval and Monitoring Program.
3. Development and Training Program.
4. Michigan School for the Blind.
5. Michigan School for the Deaf.

The purpose of this booklet is to acquaint you with the Special Education Services Area staff. We hope you will find it to be a helpful resource.

The diagram on the next page shows the relationship of SESA to other departments and agencies.

The following pages outline the responsibilities of each program unit.

SPECIAL EDUCATION SERVICES AREA
Organizational Chart



Murray O. Batten, Director
Hazel England, Secretary

Mary Ellen Smith, Acct. Ex.
Joyce Pung, Secretary

Bryant,
intendent

Analysis, Planning Technical Assistance
Jan Baxter, Supervisor
Harriett Law, Sec.

Analysis & Planning
Richard Baldwin
Norm Francis
Sandy Kowatch, Sec.
Lydia Beltran
Joyce Pung, Sec.

Technical Assistance
Foster Eid
Kris Devereaux, Sec.
Gerald Nester
Shirley Swegles
Cynthia Theusch, Sec.
Elizabeth Kitchell
Deborah Livingston-White
Sharon Fink, Sec.

Compliance, Approval and Monitoring
John Braccio, Supervisor
Lois Oakley, Sec.

Compliance
Benson Herbert
Shawn Griese
Gloria Patterson, Sec.
Denise Smith, Sec.
Jim Rowell*
Jane Scandary*
Dee Hughes, Sec.

Approval & Monitoring
Lucian Parshall
Joann McCrum-Bloom
Sue Bailey, Sec.
C. David Anderson
Craig Sparks
Sharon Thelen, Sec.
Joe Gomez
Carol Regnier
Diana Bailey, Sec.

Development & Training
Theodore Beck, Supervisor
Sandy Thelen, Sec.

Title I
Richard Richardson
Sheryl Dutkowski
Beth Weber, Sec.

Midwest Regional Deaf/Blind
George Monk
Theodore Lockett
James Rudolph
Barb Bjorling
Marily Fisher, Sec.

Michigan Deaf/Blind
Kevin Magin
Sandy Thelen, Sec.

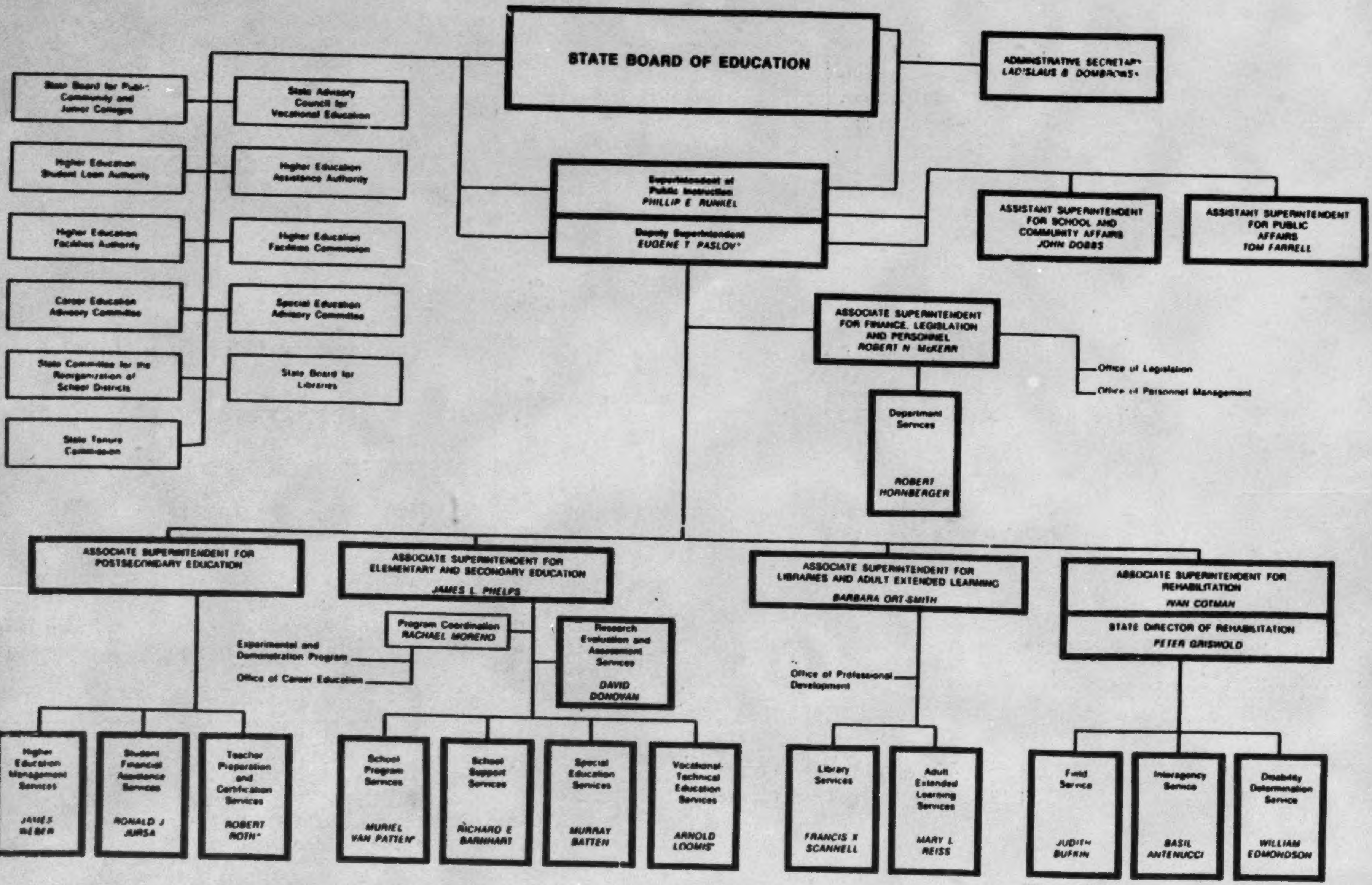
Title VI-B
Greg Kirsch
Sandra MacPherson
Wanda Corder, Sec.

Training, Part VI-D
Kathy Bergin
Sharon Kowalski, Sec.

MSD
Robert Gates,
Superintenden

*Persons also work in Approval and Monitoring Units

MICHIGAN DEPARTMENT OF EDUCATION


STATE BOARD OF EDUCATION
ADMINISTRATIVE SECRETARY LADISLAUS B DOMBROWSKI
State Board for Public Community and Junior Colleges
State Advisory Council for Vocational Education
Higher Education Student Loan Authority
Higher Education Assistance Authority
Higher Education Facilities Authority
Higher Education Facilities Commission
Career Education Advisory Committee
Special Education Advisory Committee
State Committee for the Reorganization of School Districts
State Board for Libraries
State Tenure Commission
Superintendent of Public Instruction PHILLIP E RUNKEL
Deputy Superintendent EUGENE T PASLOV*
ASSISTANT SUPERINTENDENT FOR SCHOOL AND COMMUNITY AFFAIRS JOHN DOBBS
ASSISTANT SUPERINTENDENT FOR PUBLIC AFFAIRS TOM FARRELL
ASSOCIATE SUPERINTENDENT FOR FINANCE, LEGISLATION AND PERSONNEL ROBERT N McKERR
Office of Legislation
Office of Personnel Management
Department Services ROBERT HORNBERGER
ASSOCIATE SUPERINTENDENT FOR POSTSECONDARY EDUCATION
ASSOCIATE SUPERINTENDENT FOR ELEMENTARY AND SECONDARY EDUCATION JAMES L PHELPS
Program Coordination RACHAEL MORENO
Experimental and Demonstration Program
Office of Career Education
Research Evaluation and Assessment Services DAVID DONOVAN
ASSOCIATE SUPERINTENDENT FOR LIBRARIES AND ADULT EXTENDED LEARNING BARBARA ORT-SMITH
Office of Professional Development
ASSOCIATE SUPERINTENDENT FOR REHABILITATION IVAN COTMAN
STATE DIRECTOR OF REHABILITATION PETER GRISWOLD
Higher Education Management Services JAMES WEBER
Student Financial Assistance Services RONALD J JURSA
Teacher Preparation and Certification Services ROBERT ROTH*
School Program Services MURIEL VAN PATTEN*
School Support Services RICHARD E BARNHART
Special Education Services MURRAY BATTEN
Vocational-Technical Education Services ARNOLD LOOMIS*
Library Services FRANCIS X SCANNELL
Adult Extended Learning Services MARY L REISS
Field Service JUDITH BUFKIN
Interagency Service BASIL ANTENUCCI
Disability Determination Service WILLIAM EDMONDSON

Michigan Department of Education
Special Education Services
P.O. Box 30008
Lansing, Michigan 48909

Name	Phone Number
Administration	
Murray Batten, Director	(517) 373-0923
Hazel England, Secretary and Office Manager	3-0923
Mary Ellen Smith, Account Executive	3-0923
Joyce Pung, Secretary	3-0923
Analysis, Planning and Technical Assistance Program	(517) 373-0923 3-0924 3-0925
Jan Baxter, Supervisor	3-0923
Harriett Law, Secretary	3-0923
Richard Baldwin, Consultant	3-0923
Norm Francis, Consultant	3-0923
Sandy Kowatch, Secretary	3-0923
Lydia Beltran, Consultant	3-0923
Joyce Pung, Secretary	3-0923
Elizabeth Kitchell, Consultant	3-0923
Deborah Livingston-White, Consultant	3-0923
Sharon Fink, Secretary	3-0923
Foster Eid, Consultant	3-0923
Kris Devereaux, Secretary	3-0923
Jerry Nester, Consultant	3-0923
Shirley Swegles, Secretary	3-0923
Cynthia Theusch, Secretary	3-0923
Compliance, Approval and Monitoring Program	(517) 373-1695 3-1696 3-8215
John Braccio, Supervisor	3-1695
Lois Oakley, Secretary	3-1695
Ben Herbert, Consultant (Compliance Unit)	3-1695
Shawn Griese, Technical Assistant (Compliance Unit)	3-1695
Gloria Patterson, Secretary	3-1695
Denise Smith, Secretary	3-1695
Jim Rowell, Consultant (Compliance/Approval Units)	3-1695
Jane Scandary, Consultant (Compliance/Approval/Monitoring Units)	3-1695
Dee Hughes, Secretary	3-1695
Lucian Parshall, Consultant (Approval/Monitoring Units)	3-8215
Joanne McCrum-Bloom, Tech. Assistant (Approval/Monitoring Units)	3-8215
Sue Bailey, Secretary	3-8215
C. David Anderson, Consultant (Approval/Monitoring Unit)	3-8215
Craig Sparks, Tech. Assistant (Approval/Monitoring Unit)	3-8215
Sharon Thelen, Secretary	3-8215
Carol Regnier, Technical Assistant (Approval Unit)	3-8215
Joe Gomez, Technical Assistant (Approval Unit)	3-8215
Diana Bailey, Secretary	3-8215

Name	Phone Number
Development and Training Program	(517) 373-6309 3-6325 3-9433
Ted Beck, Supervisor	3-6309
Sandy Thelen, Secretary	3-6309
Katherine Bergin, Education Specialist	3-6309
Sharon Kowalski, Secretary	3-6309
Greg Kirsch, Consultant of Title VI-B	3-6325
Sandra MacPherson, Education Specialist	3-6325
Wanda Corder, Secretary	3-6325
Richard Richardson, Coordinator of Title I (P.L. 89-313)	3-9433
Sheryl Dutkowski, Education Consultant	3-9433
Beth Weber, Secretary	3-9433
Midwest Regional Center for Deaf-Blind Children Unit	(517) 373-0108
George Monk, Coordinator	3-0108
Barb Bjorling, Educational Consultant	3-0108
Theodore Lockett, Vocational Consultant	3-0108
James Rudolph, Assessment & Evaluation Consultant	3-0108
Marilyn Fisher, Secretary	3-0108
Michigan Deaf-Blind	
Kevin Magin, Consultant	3-6309
Sandy Thelen, Secretary	3-6309
Michigan School for the Blind	
Nancy Bryant, Superintendent	(517) 373-9640
Michigan School for the Deaf	
Robert Gates, Superintendent	(313) 238-4621

SPECIAL EDUCATION SERVICE AREA
Staff and Responsibilites

Administration

MURRAY O. BATTEN, DIRECTOR 373-0923
Hazel England, Secretary

MARY ELLEN SMITH, ACCOUNT EXECUTIVE 373-0923
Joyce Pung, Secretary

S.E.S.A. Supervisory Council

Murray O. Batten - Director
Jan Baxter - Analysis, Planning & Technical Assistance
Ted Beck - Development & Training
John Braccio - Compliance, Approval & Monitoring

Responsible for the overall direction and management of special education programming in the state of Michigan.

Analysis, Planning and Technical Assistance Program (APT)

The Analysis, Planning and Technical Assistance Program contributes to the achievement of the overall goal of the Special Education Service Area by providing technical assistance to local and intermediate school districts to facilitate the development and delivery of programs and related services that are appropriate to each handicapped person's needs and potentials.

Data from local and intermediate school districts are collected and analyzed to determine the resources needed to maintain the special education delivery system. This information is used to generate state categorical aid and to complete the Annual Program Plan which provides to the Bureau of Education for the Handicapped the justification for the collection of federal funds.

Special Education personnel serve about 8 percent of students enrolled in K-12 programs. Speech, social work, school psychology and teacher consultant services are provided to students enrolled in private and parochial schools under the Auxiliary Services Act.

JAN BAXTER, SUPERVISOR 373-0923
Harriett Law, Secretary

RICHARD BALDWIN, CONSULTANT
Sandy Kowatch, Secretary 373-0923

- Audiology Services
- Hearing Impaired
- Speech and Language Impaired
- Coordination of Official Interpretations
- Rule Promulgation

LYDIA BELTRAN, CONSULTANT Joyce Pung, Secretary	373-0923

- Analysis of Special Education Data
- Federal Annual Program Plan for P.L. 94-142
- Membership and Child Count for Special Education

FOSTER EID, CONSULTANT Kris Devereaux, Secretary	373-0923

- Regional Planner for Region 5
- Institution Programs for the Developmentally Disabled
- Nursing Home Programs
- Student Rights (suspension/expulsion)

NORM FRANCIS, CONSULTANT Sandy Kowatch, Secretary	373-0923

- Child Care Institutions
- Emotionally Impaired
- Institution Programs for Emotionally Impaired
- Liaison with Departments Mental Health, Public Health and Social Services

ELIZABETH KITCHELL, CONSULTANT Sharon Fink, Secretary	373-0923

- Regional Planner for Region 1
- Secondary Program
- Liaison with Bureau of Rehabilitation and Vocational Education
- Educable Mentally Impaired

DEBORAH LIVINGSTON-WHITE, CONSULTANT Sharon Fink, Secretary	373-0923

- Regional Planner for Region 4
- Learing Disabilities
- Visually Impaired

GERALD NESTER, CONSULTANT Cynthia Theusch, Secretary	373-0923

- Regional Planner for Region 3
- State Aid Projections for Special Education
- Transportation of the Handicapped

SHIRLEY SWEGLES, CONSULTANT Cynthia Theusch, Secretary	373-0923

- Regional Planner for Region 2
- Occupational and Physical Therapy
- Physical and Otherwise Health Impaired
- Severely Mentally Impaired
- Homebound/Hospitalized
- Severely and Trainable Mentally Impaired

Compliance, Approval and Monitoring Program (CAM)

The Compliance Unit is responsible for investigating compliants and conducting state level hearings. Complaints deal with alleged violations of special education laws, rules or the intermediate school district plan. The unit also review local level hearings when their decisions have been appealed to the state level.

The Approval Unit is responsible for issuing personnel approvals based upon the criteria established by special education rule and State Board policy. The unit also reviews and recommends to the State Board, approval of intermediate school district plans. In addition, school district requests to deviate from special education rules are reviewed by this unit and either approval or denial is granted.

The Monitoring Unit conducts on-site reviews of intermediate school districts to determine the degree of which their policies, procedures and practices are consistent with special education requirements and the ISD Plan. Further, it assures BEH that school districts in Michigan actually have available a free appropriate education for all handicapped children.

Proof of compliance is a major activity of all three units.

JOHN H. BRACCIO, SUPERVISOR 373-1695

Secretarial Support to the Compliance, Approval and Monitoring Program

Lois Oakley, Secretary
Diana Bailey, Secretary
Sharon Thelen, Secretary
Sue Bailey, Secretary
Dee Hughes, Secretary
Denise Smith, Secretary
Gloria Patterson, Secretary

COMPLIANCE UNIT: 373-1695

Benson Herbert, Consultant (Investigations)
James Rowell, Consultant* (Investigations, Monitoring)
Jane Scandary, Consultant** (Hearings, Investigations, Deviations and Monitoring)
Shawn Griese, Technical Assistant (Investigations, Proof of Compliance)

APPROVAL AND MONITORING UNITS: 373-8215

Lucian Parshall, Consultant (Approvals, Deviations, Monitoring)
Dave Anderson, Consultant (Approvals, Monitoring)
Carol Regnier, Technical Assistant (Approvals, Deviations)
Joe Gomez, Technical Assistant (Approvals, Deviations)
Craig Sparks, Technical Assistant (Approvals, Monitoring)
JoAnn McCrum-Bloom, Technical Assistant (Approvals, Monitoring)

* Also works in the Monitoring Unit
** Also works in the Monitoring and Approval Units)

Development and Training Program (DAT)

This unit is responsible for the development of a training plan on a statewide basis for all personnel working with handicapped students, and the coordination distribution and monitoring of federal resources available for the education of handicapped students. The DAT Unit administers programs which provide funds fo projects under Title VI, Parts B, C and D of Public Law 94-142 and Title I - Public Law 89-313.

THEODORE BECK, SUPERVISOR 373-6309
Sandy Thelen, Secretary

- Comprehensive System of Personnel Development
- Educational Program about the Handicapped (Interstate Project)
- National Information Center for Special Education Materials
- Statewide Information Dissemmination (State Library)
- Michigan Special Olympics

COORDINATOR OF TRAINING 373-6309

- Statewide Initiated Training Project
- Colleges and Universities
- American Association and College Education
- Teacher Training Programs
- Curriculum Resource Consultants
- Training and Inservice

KATHERINE BERGIN, TECHNICAL ASSISTANT 373-6309
Sharon Kowalski, Secretary

- Training and Inservice

TITLE VI-B 373-6325

- P.L. 94-142 Funding
- Pre-Primary
- Title IV-C (Special Education Projects)
- Arts for the Handicapped

GREG KIRSCH, CONSULTANT - TITLE VI-B 373-6325
Wanda Corder, Secretary

SANDRA MACPHERSON, EDUCATION SPECIALIST 373-6325
Wanda Corder, Secretary

RICHARD RICHARDSON, COORDINATOR TITLE I (P.L. 89-313) 373-9433
Beth Weber, Secretary

SHERYL DUTKOWSKI, TECHNICAL ASSISTANT - TITLE I 373-9433
Beth Weber, Secretary

GEORGE MONK, COORDINATOR, MIDWEST REGIONAL DEAF-BLIND CENTER, TITLE VI-C 373-0108
Marilyn Fisher, Secretary

BARBARA BJORLING, EDUCATION CONSULTANT 373-0108
Marilyn Fisher, Secretary

THEODORE LOCKETT, VOCATIONAL CONSULTANT 373-0108
Marilyn Fisher, Secretary

JAMES RUDOLPH, ASSESSMENT AND EVALUATION CONSULTANT 373-0108
Marilyn Fisher, Secretary

The Midwest Regional Center for Services to Deaf-Blind Children is a four state regional project which provides services to parents, professionals, and paraprofessionals working with deaf-blind multiply handicapped children. Services include:

- Diagnostic and Education Assessment
- Consultation to Parents and Persons with an Interest in the Deaf-Blind
- Workshops and Special Study Institutes
- Research
- Personnel Training
- Home Services to Parents and Families
- Identification and Referral
- Media Development and Dissemination

The Michigan component provides direct services to the deaf-blind multiply handicapped in Michigan.

KEVIN MAGIN, MICHIGAN DEAF-BLIND CONSULTANT 373-6309
Sandy Thelen, Secretary

STATE SCHOOLS - MICHIGAN DEPARTMENT OF EDUCATION

Michigan School for the Blind (517) 373-9640

NANCY BRYANT, SUPERINTENDENT
715 West Willow
Lansing, Michigan 48913

Public Act No. 123 of the Acts of 1893 established the Michigan School for the Blind in Lansing. This residential facility provides comprehensive educational programs and services for both its resident population and for visually impaired students from local districts who can benefit from such programs and/or services. Comprehensive programs and services include regular academic instruction and adapted curriculums for the multiply handicapped, orientation and mobility training, daily living skills, physical education, pre-vocational and vocational education.

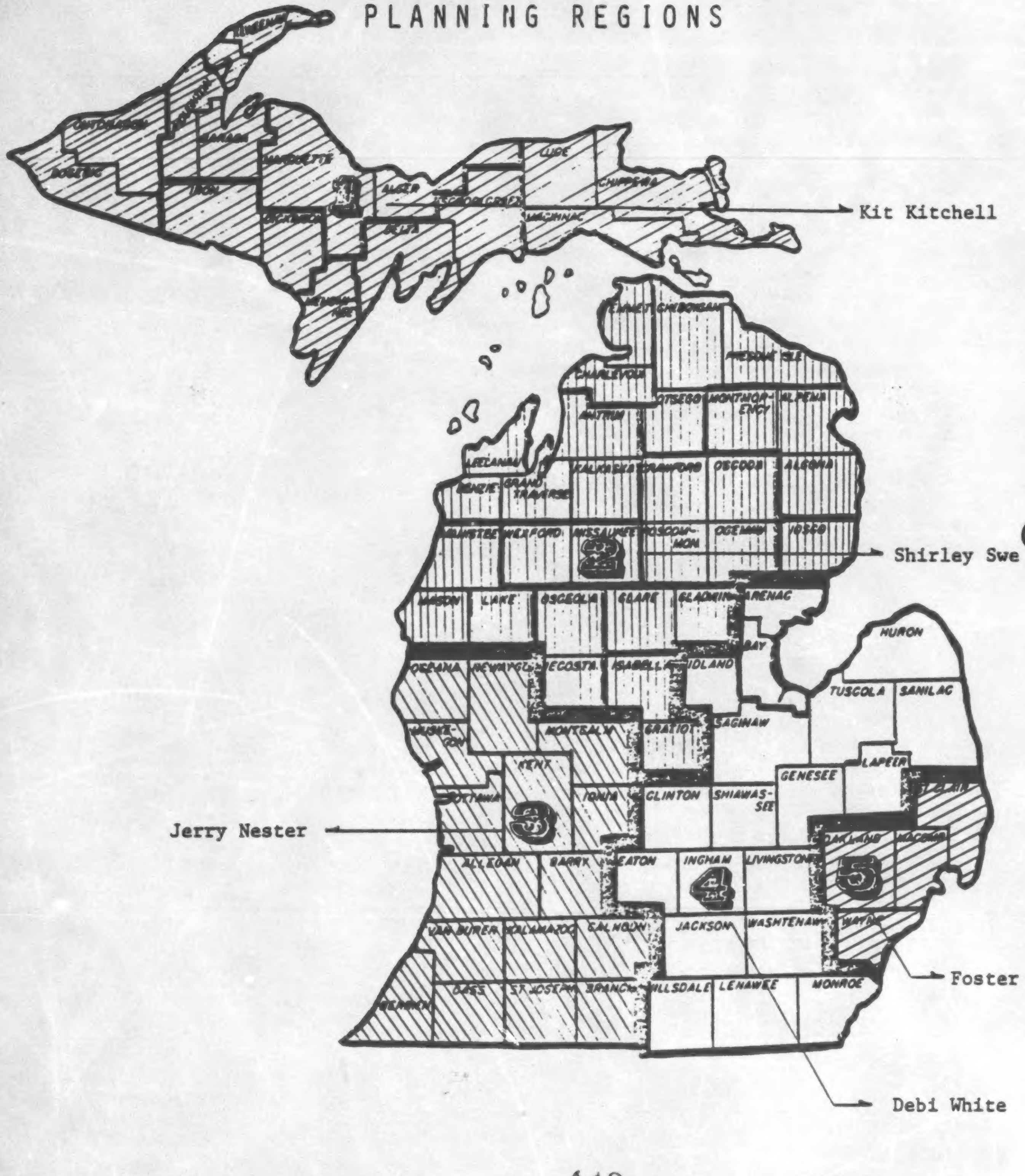
Michigan School for the Deaf (313) 238-4621

ROBERT GATES, SUPERINTENDENT
West Court at Miller Road
Flint, Michigan 48504

This facility was established in Flint as a result of Act 116 of the Public Acts of 1893. This residential facility provides comprehensive educational programs and services for both its resident population and for hearing impaired students from local districts who can benefit from such programs and/or services. Comprehensive programs and services include regular academic instruction and adapted curriculums for the deaf, audiological and other special diagnostic service for the hearing impaired, physical education, pre-vocational and vocational education.

SPECIAL EDUCATION SERVICE AREA

PLANNING REGIONS


1
2
3
4
5
KEWEENAW
ONTONAGON
HOUGHTON
BARAGA
MARQUETTE
GOGEBIC
IRON
DICKINSON
MENOMINEE
ALGER
SCHOOLCRAFT
DELTA
LUCE
MACKINAC
CHIPPEWA
EMMET
CHEBOYGAN
PRESQUE ISLE
CHARLEVOIX
OTSEGO
MONTMORENCY
ALPENA
ANTRIM
LEELANAU
BENZIE
GRAND TRAVERSE
KALKASKA
CRAWFORD
OSCODA
ALCONA
MANISTEE
WEXFORD
MISSAUKEE
ROSCOMMON
OGEMAW
IOSCO
MASON
LAKE
OSCEOLA
CLARE
GLADWIN
ARENAC
OCEANA
NEWAYGO
MECOSTA
ISABELLA
MIDLAND
BAY
HURON
TUSCOLA
SANILAC
MUSKEGON
MONTCALM
GRATIOT
SAGINAW
KENT
GENESEE
LAPEER
ST. CLAIR
OTTAWA
IONIA
CLINTON
SHIAWASSEE
OAKLAND
MACOMB
ALLEGAN
BARRY
EATON
INGHAM
LIVINGSTON
VAN BUREN
KALAMAZOO
CALHOUN
JACKSON
WASHTENAW
WAYNE
BERRIEN
CASS
ST. JOSEPH
BRANCH
HILLSDALE
LENAWEE
MONROE

Kit Kitchell

Shirley Swe

Jerry Nester

Foster

Debi White

MISCELLANEOUS